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# REPORT ON NORWEGIAN FLAG STATE PERFORMANCE

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A self-assessment in accordance with  
the FAO Voluntary Guidelines for Flag State Responsibility



ROYAL NORWEGIAN MINISTRY OF  
TRADE, INDUSTRY AND FISHERIES

## Contents

I	General Introduction.....	2
II	The International Framework.....	3
1.	Global Instruments.....	3
2.	Norway's obligations.....	4
3.	Stateless vessels.....	4
4.	The FAO Flag State Guidelines.....	5
III	Self-assessment of the Norwegian flag State performance.....	6
1.	General (Criteria 6 - 10).....	6
1.1	General Comments.....	6
1.2	Implementation of RFMO requirements.....	7
2.	Fisheries management (Criteria 11 - 13).....	7
2.1	Introduction.....	7
2.2	The framework (Criteria 11).....	8
2.3	Implementation of conservation and management measures (Criteria 12).....	11
2.4	Communication and guidance from flag State to operators (Criteria 13).....	14
3.	Information, registration and records (Criteria 14 - 28).....	15
3.1	The Norwegian vessel registration system for fishing and fishing related activities 15	
4.	Authorizations (Criteria 29 - 30).....	25
4.1	Authorization regime (Criteria 29).....	25
4.2	Implementation of the authorization regime (Criteria 30).....	27
5.	Monitoring, control, surveillance and enforcement (Criteria 31 - 38).....	29
5.1	Control regime (Criteria 31a – 31d).....	29
5.2	Inspection regime (Criteria 31e).....	32
5.3	Enforcement regime (Criteria 32).....	34
5.4	MCS efforts (Criteria 33 - 34).....	40
5.5	Action taken in respect of Norwegian IUU fishing vessels (Criteria 35).....	41
5.6	Sharing of evidence etc. (Criteria 36).....	42
5.7	Disputes (Criteria 37).....	42
5.8	Sanctions (Criteria 38).....	42

# I General Introduction

Improvement of flag State performance has been a topic on the international agenda for several years. Responsible flag State performance is a key element in the fight against illegal, unregulated and unreported (IUU) fishing.

Norway participated actively in the FAO process leading up to the adoption of the Voluntary Guidelines for Flag State Performance (the FAO Flag State Guidelines) in 2014. These guidelines provide a valuable tool for strengthening compliance by flag States with their international responsibilities regarding flagging, and control of their vessels involved in fishing and fishing related activities.

Pursuant to the FAO Flag State Guidelines, all States are encouraged to have performance assessments, either self-assessments or external ones, conducted periodically. Norway has established a working group of both internal and external experts for undertaking its first comprehensive assessment.

The Working Group was given the following mandate:

*The Working Group shall provide a systematic examination of the Performance Assessment Criteria 6 to 38 in the FAO Voluntary Guidelines for flag State Performance. The Working Group shall conduct the assessments in accordance with the Guidelines paragraph 45. The examination shall include:*

- *A description of the guidelines*
- *An evaluation of how Norway has implemented the guidelines*
- *References to relevant national legislation*
- *A description of possible deficiencies or areas of improvement, and how this could be done.*

The Working Group comprised five members in total; two from the Ministry of Trade, Industry and Fisheries, two from the Directorate of Fisheries and one external advisor.<sup>1</sup> The Working Group met three times and also worked by correspondence between meetings. In addition, the draft report was subject to consultations between relevant authorities prior to finalization.

It has been noted by the Working Group that several of the criteria in the guidelines address nuances and overlaps of the topics to be assessed. Thus, in this assessment cross-references are made in order to avoid repetitive text. In a few instances, the content of a specific criteria was unclear to the group. However this might be due to the particularities of the Norwegian management system.

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<sup>1</sup> Working Group participants: Specialist Director Gunnar Stølsvik and Senior Adviser Ingrid Vikanes from the Ministry of Trade Industry and Fisheries, Specialist Director Terje Løbach and Senior Adviser Hilde Ognedal from the Directorate of Fisheries, and Professor Tore Henriksen, Faculty of Law, the Arctic University of Norway.

The findings of the Working Group are presented in this report, which has been submitted to the Ministry of Trade, Industry and Fisheries for considerations and possible follow-up. The report will also be submitted to the North-East Atlantic Fisheries Commission (NEAFC), which at its 2017 Annual Meeting decided that all Contracting Parties shall carry out self-assessments. The Permanent Committee on Monitoring and Compliance (PECMAC) will coordinate the self-assessments and present a report to the NEAFC Annual Meeting in 2020.

The group finds that Norway has taken multiple actions in order to fulfil its flag State responsibilities, and that in general it has incorporated the relevant binding measures into its domestic legislation and management system. These include relevant provisions of global binding instruments and measures adopted by regional fisheries management organizations (RFMOs) to which Norway is a member.

However, there are lack of clarity and deficiencies in regulations concerning vessels engaged in transshipment, and there are no fisheries specific regulations concerning vessels involved in other fishing related activities such as refueling and resupplying at sea. There are also a few other issues, relatively minor, that should be addressed by Norwegian authorities.

## **II The International Framework**

### **1. Global Instruments**

The key legally binding instrument is the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides the framework for all maritime activities, including conservation and utilization of living marine resources. Treaties that in particular relate to fishing include the 2005 UN Fish Stocks Agreement (UNFSA),<sup>2</sup> the 1993 FAO Compliance Agreement,<sup>3</sup> and the 2009 FAO Port State Measures Agreement (PSMA).<sup>4</sup>

In addition, many soft-law instruments have been adopted. Those relevant in this context include the 1995 FAO Code of Conduct on Responsible Fisheries (the Code of Conduct), the 1999 FAO International Plan of Action for the Management of Capacity (IPOA-Capacity), the 1999 FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds), the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU), the 2010 FAO Guidelines on Bycatch Management and Reduction of Discards (the Bycatch Guidelines), the 2008 FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, the 2017 FAO Guidelines for Catch Documentation Schemes (the CDS Guidelines), as well as the FAO Flag State Guidelines, which form the basis of this review.

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<sup>2</sup> Full title: «Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks»

<sup>3</sup> Full title: «Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas»

<sup>4</sup> Full title: «Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing»

The UN General Assembly annually addresses fisheries issues, among other things calling upon States, individually or through RFMOs, to address specific topics in order to achieve sustainable fisheries. Likewise, several declarations, both ministerial and other, have called for specific actions to address conservation and management of fisheries and the ecosystem in which they take place. While UNCLOS, UNFSA, the Compliance Agreement and the PSMA entail legally binding obligations on their parties, all these other instruments are voluntary. They serve as guidelines and toolboxes for conservation and management of fisheries, including some specific options for States and RFMOs. RFMOs can adopt legally binding measures within their respective areas of competence.

## **2. Norway's obligations**

As a party to UNCLOS, UNFSA, PSMA and the Compliance Agreement, Norway is obliged to implement relevant provisions of those treaties. Articles 91, 92 and 94 of UNCLOS in particular deal with issues related to the role of the flag State, the key provision of UNFSA is Article 18, Article 20 of the PSMA addresses the role of flag States, and sole objective of the Compliance Agreement is promotion of flag State compliance on the high seas. Norway is furthermore bound by decisions made by RFMOs to which Norway is a member. Those are the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Commission for the Conservation of Atlantic Tuna (ICCAT), the Northwest Atlantic Fisheries Organization (NAFO), NEAFC and the South East Atlantic Fisheries Organisation (SEAFO). All these RFMOs have adopted control measures which entail a series of obligations on Norway as a flag State.

In 2015, the International Tribunal for The Law of the Sea (ITLOS) delivered an Advisory Opinion (case no 21) on questions raised by The Sub-Regional Fisheries Commission, including questions on obligations of the flag State in cases where IUU fishing takes place within the exclusive economic zone of another State and to what extent the flag State shall be held liable for IUU fishing conducted by vessels sailing under its flag. ITLOS concluded that the flag State is under the "due diligence obligation" to take necessary measures to ensure compliance by vessels flying its flag with the laws and regulations of coastal States related to conservation and management of fisheries resources.

## **3. Stateless vessels**

The phenomenon of stateless fishing vessels operating on the high seas has increased over the last years. Many vessels also illegally claim the right to fly a particular flag, but are actually without nationality as they are not properly registered and not entitled to fly the flag of any State. Taking action against such vessels should be a high priority, because their very statelessness frustrates the primary means to control through flag State jurisdiction. A vessel without nationality operates outside of this form of control. Stateless vessels upon the high seas do not enjoy the legal protection accorded to flagged vessels under international law. As such, they are subject to the extraterritorial jurisdiction of any authority on the scene. Vessels without nationality are thus subject to the jurisdiction of any State that may impose penalties for engaging in IUU fishing. Such actions would in most cases require that national legislation is also applicable to stateless vessels, and it should be noted that the Act of 6 June 2008 no.

37 relating to the management of wild living marine resources (the Marine Resources Act) also applies to stateless vessels and to those assimilated to be vessels without nationality.<sup>5</sup>

#### **4. The FAO Flag State Guidelines**

The FAO Flag State Guidelines are not legally binding, but they are an important indication of what flag States may need to do in order to comply with their obligations under the UNCLOS and other relevant treaties.

The FAO Flag State Guidelines contain an extensive set of assessment criteria, which include detailed criteria about how a flag State handles fisheries management, authorizations, information, registration and records, as well as monitoring, control, surveillance and enforcement. The guidelines also contain procedures for carrying out assessments, encouraging compliance and deterring non-compliance.

States should establish grounds for refusal of registration of a vessel, which would include vessels on an IUU vessel list adopted by an RFMO, vessels holding registration from another State and vessels with a history of non-compliance.

States should maintain up-to-date records of vessels authorized to engage in fishing and fishing related activities. The FAO Flag State Guidelines list a number of items to be contained in such a record in order to properly identify vessels, which include vessel name, names of owner, operator and beneficial owner and their respective addresses, history and characteristics of the vessel.

Pursuant to the FAO Flag State Guidelines, States should ensure that no vessel is allowed to operate unless authorized by it. States are advised to establish appropriate scope for such authorization, including conditions for the protection of marine ecosystems. Authorizations should also include minimum information requirements such as the name of the vessel and its owner(s), the areas and duration of the authorization, as well as authorized species and fishing gear.

The FAO Flag State Guidelines require States to implement a control regime. Such a regime should include the legal authority to take control of the vessels (e.g. denial of sailing, recall to port) as well as monitoring tools, such as vessel monitoring systems (VMS), logbooks/documentation, and observers. In addition, a regime should include mandatory requirements regarding fisheries-related data that have to be recorded and reported in a timely manner (e.g. catches, effort, bycatches and discards, landings and transshipments and an inspection regime).

States should have in place an enforcement regime authority to conduct investigations of violations. Sanctions should be proportionate to the seriousness of the violation and adequate in severity to effectively secure compliance, discouraging violations and depriving offenders of benefits accruing from their illegal activities.

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<sup>5</sup> The Marine Resources Act, Section 5

Following introductory paragraphs (paragraphs 1-5) stating the purpose and principles of the FAO Flag State Guidelines and their scope of application, the Guidelines provide an extensive set of criteria (paragraphs 6 - 38) against which flag States may assess their performance. Chapter III of this report contains a self-assessment of the Norwegian flag State performance against all these criteria.

### **III Self-assessment of the Norwegian flag State performance**

#### **1. General (Criteria 6 - 10)**

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6. *The flag State has incorporated the flag State principles and rules that are binding on it in accordance with international law into its domestic laws, regulations, policies and practices.*

7. *The flag State has taken such measures as may be necessary to ensure that vessels flying its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures or the flag State accepts and implements the conservation and management measures adopted by a relevant regional fisheries management organization or arrangement (RFMO/As).*

8. *The flag State effectively contributes to the functioning of the RFMO/A in which it participates (i.e. the flag State implements its duties as a contracting party or as a cooperating nonparty, including reporting requirements for fishing and fishing related activities and ensuring compliance by its vessels).*

9. *The flag State ensures that vessels flying its flag do not conduct unauthorized fishing and fishing related activities within areas under the national jurisdiction of other States.*

10. *The flag State supports cooperation among flag States on managing capacity and fishing effort, catch limits and output controls.*

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#### **1.1 General Comments**

The Working Group finds that criteria six to nine also are addressed in the specific criteria under Fisheries Management, Information, Registration and Records, Authorizations, Monitoring, Control, Surveillance and Enforcement. However, some specific comments regarding requirements of the RFMOs to which Norway is a party is provided below.

With regard to criteria 10, Norway cooperates within RFMOs and through bilateral and multilateral arrangements on managing fishing effort, catch limits and output control. Concerning cooperation on capacity management, Norway plays an active role in efforts of the World Trade Organization (WTO) to address this issue.

## **1.2 Implementation of RFMO requirements**

As mentioned above, Norway is a member of CCAMLR, ICCAT, NAFO, NEAFC and SEAFO. However, the level of activity from Norwegian vessels vary significantly from RFMO to RFMO. In 2018, 161 Norwegian vessels are authorized to fish in the NEAFC Regulatory Area,<sup>6</sup> whereas three vessels are authorized to fish in the NAFO Regulatory Area, two Norwegian vessels take part in ICCAT fisheries and four in CCAMLR. Norwegian vessels are currently not fishing in SEAFO.

Most of the RFMO requirements are of a general nature and embedded in the overall Norwegian management system, such as requirements related to marking of vessels, VMS, activity and catch reporting and inspections. These are further described below. In addition, special requirements such as those related to specific species, the protection of vulnerable marine ecosystems and the use of gear are implemented in separate regulations. These regulations also include general provisions requiring the vessels to comply with all applicable requirements adopted by the relevant RFMO. A list of these regulations are provided in annex 3. Some of these regulations overlap and should be updated.

## **2. Fisheries management (Criteria 11 - 13)**

### **2.1 Introduction**

The FAO Flag State Guidelines' chapter on fisheries management addresses core elements crucial to the effective implementation and enforcement of flag State responsibilities. This includes elements such as the establishment of institutional arrangements with clearly defined roles and functions, the adoption of national legislation enabling the flag State to manage its own fishing fleet in accordance with its obligations as a flag State and the establishment of a communication system between the responsible authorities and the actors operating on the high seas.

Norway's management system is described below.

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<sup>6</sup> Regulatory Area is the parts of the NEAFC Convention Area beyond areas under national jurisdiction of Contracting Parties.

## 2.2 The framework (Criteria 11)

### 2.2.1 Responsible Authorities (Criteria 11a and 11b)

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11. The flag State has established an institutional, legal, technical foundation or framework for fisheries management, such as that referred to in Article 7 of the 1995 FAO Code of Conduct for Responsible Fisheries ("the Code"), that should include, at a minimum:

- (a) a government agency or statutory authority or statutory oversight of an agency or a body with a clear mandate and accountability for the results of fisheries management policy;
  - (b) an agency or authority to issue regulations and ensure control and enforcement;
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The Norwegian Ministry of Trade, Industry and Fisheries is the governing authority responsible for fisheries and aquaculture management, seafood safety, fish health and welfare, framework conditions for the seafood trade and market access for Norwegian seafood. The Ministry of Trade, Industry and Fisheries acts as the secretariat to the Minister of Fisheries and exercises its administrative authority through measures such as adoption and implementation of legislations and regulations.

The Directorate of Fisheries acts as the Ministry's advisory and executive body in matters concerning fishing and the management of aquaculture. The role of the Directorate of Fisheries is amongst others to provide professional input in the policy-making process, to implement political decisions and to undertake monitoring, control and surveillance (MCS) to ensure compliance with national and international regulations. The Director General of the Directorate of Fisheries is responsible for the coordination of the MCS efforts of the Directorate of Fisheries, the Coast Guard and the sales organizations.

The Coast Guard has several responsibilities and is subordinated to the Ministry of Defense. However, one of its primary missions is to monitor, control, investigate and enforce fisheries legislation. The Coast Guard conducts MCS of fisheries and fisheries related activities.

The Norwegian fishermen's sales organizations are responsible for all first hand sale of fish. The sales organizations have been delegated public authority by law to carry out MCS activities in close cooperation with other control authorities. This includes registration of landed fish, inspections etc. At present, there are six sales organizations in Norway with government approval.

In addition to the above, the Norwegian Ordinary Ship Register (NOR) and the Norwegian International Ship Register (NIS) fall under the responsibility of the Norwegian Maritime Authority.

## 2.2.2 Legal Framework (Criteria 11a)

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11. The flag State has established an institutional, legal, technical foundation or framework for fisheries management, such as that referred to in Article 7 of the 1995 FAO Code of Conduct for Responsible Fisheries (“the Code”), that should include, at a minimum:

(a) a government agency or statutory authority or statutory oversight of an agency or a body with a clear mandate and accountability for the results of fisheries management policy;

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The Marine Resources Act provides a comprehensive regulatory framework for the management of living marine resources. The Act regulates the conduct of fishing and includes *inter alia* provisions relating to catch quantities and quotas, the conduct of harvest operations and other utilization of wild living marine resources, control and enforcement and measures against IUU fishing.

The Act of 26 March 1999 no. 15 relating to the right to participate in fishing and hunting (the Participation Act) regulates the right to engage in commercial fishing and hunting using Norwegian vessels. The Act establishes a system of permits, securing the authorities control of the participants in the fisheries and one of the main purposes of the Act is to adjust the catch capacity of the fishing fleet to ensure rational sustainable exploitation of marine resources.

The Act of 24 June 1994 no. 39 relating to shipping (the Norwegian Maritime Code) covers substantial aspects of shipping-related business and encompasses amongst others provisions on vessel registration and vessel marking.

The Act of 13 June 1997 no. 42 relating to the Coast Guard (the Coast Guard Act) provides the Coast Guard with extensive control and enforcement authority at sea. Hence, the Coast Guard may search vessels and crew, arrest crew, confiscate any goods and make use of other penalized coercive measures, including denial of sailing, in accordance with the requirements in the Act of 22 May 1981 no. 25 relating to Legal Procedure in Criminal Cases (the Criminal Procedure Act).

## 2.2.3 Internal organization (Criteria 11c)

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11. *The flag State has established an institutional, legal, technical foundation or framework for fisheries management, such as that referred to in Article 7 of the 1995 FAO Code of Conduct for Responsible Fisheries (“the Code”), that should include, at a minimum:*

*(c) internal organization for inter-departmental coordination, in particular coordination between fisheries authorities and vessel registry authorities; and*

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In Norway there is close cooperation between relevant Ministries and other public authorities. Furthermore there is also close cooperation between the Directorate of Fisheries, the Coast Guard and the sales organizations, as well as with the tax and customs authorities. Furthermore, there is cooperation between the fisheries authorities and the Food Safety

Authorities, the Norwegian Coastal Administration, the Norwegian Metrology Services<sup>7</sup>, the Police, the Public Prosecutor as well as a number of other government agencies.

With regards to vessel registry, this is coordinated between fisheries and maritime authorities on a case-by-case basis and through regular meetings.

#### 2.2.4 Infrastructure for scientific advice (Criteria 11d)

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11. *The flag State has established an institutional, legal, technical foundation or framework for fisheries management, such as that referred to in Article 7 of the 1995 FAO Code of Conduct for Responsible Fisheries (“the Code”), that should include, at a minimum:*

*(d) infrastructure for scientific advice.*

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It is a top priority for Norway to base its conservation and management measures on the best available scientific information. This is embedded in the Marine Resource Act through what is called «the management principle»<sup>8</sup>, which sets out a series of overall principles that shall be taken into account in the management of all living marine resources, such as the precautionary and ecosystem approaches.

The Institute of Marine Research (IMR) is the key marine research institution in Norway and a leading organization within scientific investigations and advice on marine ecosystems. IMR monitors and studies the ecosystems of the Barents Sea, the Norwegian Sea and the North Sea, as well as ecosystems in the coastal zone. Research vessels, laboratories and research stations are used to collect data as basis for research and scientific advice.

Norwegian fisheries are first and foremost conducted on shared fish stocks for which Norway (and the other relevant coastal States) receives scientific advice on catch (live weight) or effort levels from the International Council for the Exploration of the Sea (ICES). Based on inputs from research institutions in the member countries, such as IMR, ICES assembles and analyses information about the status of fish stocks, and provides scientific advice on conservation and management measures to member States and RFMOs.

In general, Norwegian authorities cooperate closely with scientists when developing conservation and management measures. For example, fishery scientists are included in the Norwegian delegations when engaging in fishery negotiations concerning the management of shared fish stocks. This ensures a close dialogue enabling the scientists to provide their advice directly into the negotiation process.

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<sup>7</sup>The authority responsible for national measurement standards, which is relevant for the weighing of catches.

<sup>8</sup> The Marine Resources Act, Section 7

## 2.3 Implementation of conservation and management measures (Criteria 12)

### 2.3.1 Principles, rules and standards (Criteria 12a)

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12. The flag State has adopted laws, regulations or other arrangements implementing conservation and management measures, which should include, at a minimum:

(a) principles, rules and standards contained in relevant international instruments as applicable and the provisions of paragraph 2 of these Guidelines, as well as any applicable RFMO/As conservation and management measures;

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The Marine Resources Act lists a series of principles and concerns that are to be taken into consideration in the management of living marine resources. Among these are the precautionary approach, an ecosystem-based approach, optimum utilization and allocation of resources, effective MCS of harvesting, implementation of international law and transparency in decision-making.

The legal framework as referred to in paragraph 2.2.2 provides a comprehensive way to manage living marine resources at the domestic level. The approach taken is a combination of limits to access to fisheries, restrictions on catches in the form of quotas, and technical regulations determining the type of fishing gear permitted, and fishing seasons and areas. Important aspects of the regime include discard bans and flexible closures of areas with concentrated occurrence of juvenile fish.

### 2.3.2 Capacity and fishing effort, catch limits and output control (Criteria 12b)

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12. The flag State has adopted laws, regulations or other arrangements implementing conservation and management measures, which should include, at a minimum:

(b) a national framework, such as national plans or programmes, to manage capacity and fishing effort, catch limits and output control and to combat IUU fishing or fishing related activities in support of such fishing; and

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A Norwegian vessel may not be used for commercial fishing unless a commercial licence has been issued.<sup>9</sup> In addition several measures to manage fishing capacity have been introduced. Together with strict quota regulations and other conservation and management measures, this aims to ensure the sustainability of fisheries resources.

In most fisheries Norway has established limited-entry fisheries management schemes. In addition to the requirement to hold a commercial licence, participation is limited by annual permits for the coastal fleet,<sup>10</sup> and special licences for the ocean going fleet,<sup>11</sup> in combination

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<sup>9</sup> The Participation Act, Section 4

<sup>10</sup> Ibid. Section 21. Detailed requirements established in an annual regulation on participation in the coastal fleet fisheries.

<sup>11</sup> Ibid. Section 12, and Regulation on special licences of 13 October 2006

with individual vessel quotas.<sup>12</sup> The overall Norwegian quotas are allocated to different vessel groups and subsequently distributed amongst the vessels holding the necessary licences to participate in a particular group. The authorities may withdraw permits and licences if issuing conditions are not met, and may also grant new licences and permits. Licences and annual permits are not tradable per se, but the fisheries authorities may allow certain transactions of licences and annual permits.

In order to harmonize the capacity and the profitability of the fleet, there are in place systems for quota consolidation in the fishing fleet called the Structural Quota Systems; one for the coastal fleet<sup>13</sup> and one for the ocean-going fleet.<sup>14</sup> Through the Structural Quota Systems an owner of two or more vessels with quotas in a given fishery would be allowed to merge quotas and use it for one of the vessels, on the condition that the vessel which is stripped of its quota is scrapped. Furthermore, vessels may transfer the structural quotas to other vessels within the same group, subject to the approval of the Directorate of Fisheries. There is a cap on structural quotas per vessel. This ensures that fishing capacity is not transferred to other fisheries or areas, nationally or internationally.

Norwegian authorities are monitoring in great detail the development in the fishing fleet with respect to fishing capacity, assessed through the number of vessels, size and engine power. However, there are currently no established target levels, as it is foreseen that the market-based instrument in place leads to an industry driven capacity customization to sustainable levels.

Norwegian vessels fishing in areas beyond national jurisdiction are also required to hold a foreign fishing licence granted by the Directorate of Fisheries<sup>15</sup>. Such licences are granted only if the vessel will have fishing rights within areas managed by RFMOs to which Norway is a party. Hence, no licence will be granted if the area in question is not covered by an RFMO or adequate arrangements are not in place. Exempt from this requirement are Norwegian vessels fishing in the NAFO and the NEAFC areas. In these areas, fishing may be conducted in accordance with the ordinary commercial licence and special licences or annual permits described above.

Norway terminated subsidies to the fishing industry more than twenty years ago. However, a very limited support is provided to the fishing industry through social programs.

Furthermore, Norway has also introduced a series of means for the control of vessels entitled to fly its flag, including electronic catch and activity reporting requirements, mandatory use of VMS etc. by vessels, as well as at-sea and port inspections. These are further described throughout this document.

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<sup>12</sup> Quota regulations are established annually by species.

<sup>13</sup> Regulation on a special quota arrangement for the coastal fleet of 7 November 2003

<sup>14</sup> Regulation on a structural quota system of 4 March 2005

<sup>15</sup> Regulation on a special licensing system for fishing outside Norwegian fisheries jurisdiction of 2 March 2007

### 2.3.3 Transshipment (Criteria 12c)

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12. *The flag State has adopted laws, regulations or other arrangements implementing conservation and management measures, which should include, at a minimum:*

(c) *regulation of transshipment.*

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The Marine Resources Act<sup>16</sup> provides legal basis for prohibiting or adopting further rules on transshipment, including reporting requirements, and such rules have been incorporated into the Regulation concerning electronic reporting systems (ERS).<sup>17</sup> The regulation requires that all Norwegian vessels at or above 15 metres (12 metres if operating in the EU-zone, the North Sea or in Skagerrak), including vessels involved in transshipments, send position reports every hour and report catch and activity data electronically, regardless of whether they are in Norwegian waters, in waters under the jurisdiction of another State or in areas beyond national jurisdiction.

The regulation also prohibits Norwegian vessels from transshipping to vessels which do not hold a licence to conduct fishing activities in the Norwegian Economic Zone and are not flagged to a Member State of the European Union, the Faroes Islands, Greenland, Iceland, Norway and Russia, or any of the NEAFC cooperating non-Contracting Parties. Similar provisions are implemented for Norwegian vessels operating in the NEAFC Regulatory Area,<sup>18</sup> and in areas beyond national jurisdiction not subject to RFMO requirements.<sup>19</sup>

At least 24 hours before any transshipment, donor vessels are required to send a transshipment message to the Directorate of Fisheries, with the exception of transshipment for on board production, where such a message is required at least two hours before transshipment. Receiving vessels are required to send transshipment messages to the Directorate of Fisheries no later than one hour after the transshipment took place. The messages shall include, amongst others, information identifying the vessels (names, IRCs and national registrations), the position, date and time of transshipment, quantities of fish on board, quantities to be transshipped by species, and the port of landing. The transshipment messages are not requiring information regarding catch by area, but this is required in the daily catch messages.

RFMOs to which Norway is a party have adopted transshipment regulations. For example, ICCAT has established a ban of transshipment at sea, except for large scale pelagic long liners, which may transship to carrier vessels included on the ICCAT record of carrier vessels. Further conditions, such as flag State authorization, notification procedures as well as regional observer programmes apply. NEAFC and NAFO also require that only authorized vessels may engage in transshipments operations and specific reporting requirements apply. CCAMLR has

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<sup>16</sup> The Marine Resources Act, Section 37

<sup>17</sup> Regulation on position reporting and electronic reporting for Norwegian fishing vessels of 21 December 2009

<sup>18</sup> Waters of the NEAFC Convention Area which lie beyond the waters under the fisheries jurisdiction of Contracting Parties

<sup>19</sup> Regulation on registration and reporting requirements in relation to fishing in areas beyond national jurisdiction of 30 June 1999

established various requirements, including notification obligations, while SEAFO has established a ban on transshipment at sea.

If a vessel informs the Directorate of Fisheries about its intention to receive catch in areas managed by RFMOs, this information is provided to the relevant RFMOs as required. However, a Norwegian record of vessels involved in transshipments has not been established, nor is there a general requirement for Norwegian vessels to have a prior authorization before engaging in transshipment activities regardless of area. This deficiency should be addressed by Norwegian authorities.

## **2.4 Communication and guidance from flag State to operators (Criteria 13)**

### *2.4.1 Communication (Criteria 13a)*

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*13. The flag State effectively implements conservation and management measures, including the following:*

*(a) the flag State ensures that the obligations incumbent upon the vessel owners, operators and crews are clearly accessible and communicated to them;*

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All obligations incumbent upon owners, operators and crews of Norwegian flagged vessels are incorporated into Norwegian acts and regulations. New and amended acts and regulations are announced in the Official Legal Gazette, which is published electronically through the website, and are available to the general public free of charge.<sup>20</sup> All acts and regulations in force are continually consolidated for easy access.

In addition, all regulations relevant to fisheries are continuously published on the website of the Directorate of Fisheries. Some regulations are also distributed directly to relevant fishermen's associations and announced through radio, if necessary.

When operating in waters under the jurisdiction of other States, Norwegian vessels are required to follow the laws and regulations of the relevant coastal State. This requirement is however not made explicit, neither in the legal framework nor in the authorization provided by Norwegian authorities to vessels fishing in waters under the jurisdiction of other States. This deficiency should be addressed.

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<sup>20</sup> [www.lovddata.no](http://www.lovddata.no)

#### 2.4.2 Guidance (Criteria 13b)

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13. *The flag State effectively implements conservation and management measures, including the following:*

(b) *the flag State provides guidance to the fishing sector to meet these obligations; and*

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The Directorate of Fisheries has established a Fisheries Monitoring Centre (FMC), which provides guidance and responds to inquiries from Norwegian vessels worldwide and foreign fishing vessels operating in Norwegian waters.

Furthermore, the Directorate of Fisheries provides guidance to the fishermen through the publication of written instructions on the interpretation of regulations, Q & A's, through regular meetings with owners and/or masters of vessels and through direct contact by email or telephone.

Guidance and instructions are also provided by the Coast Guard.

#### 2.4.3 Management of vessels (Criteria 13 c)

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13. *The flag State effectively implements conservation and management measures, including the following:*

(c) *the flag State effectively manages the fishing and fishing related activities of the vessels flying its flag in a manner that ensures the conservation and sustainable use of living marine resources.*

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This is addressed in various paragraphs such as 2.2.4, 2.3.1 and 2.3.2, and chapters 4 and 5.

### **3. Information, registration and records (Criteria 14 - 28)**

#### **3.1 The Norwegian vessel registration system for fishing and fishing related activities**

When it comes to records and registers, the Norwegian system clearly distinguishes between fishing vessels and other vessels, including those involved in fisheries related activities.

All Norwegian fishing vessels with an overall length of 15 meters or more shall be registered in the Norwegian Ordinary Ship Register (NOR), vessels involved in fisheries related activities may be registered in either NOR or the Norwegian International Ship Registry (NIS).<sup>21</sup> Both NOR and NIS fall under the responsibility of the Maritime Authority. All Norwegian flagged vessels (NOR and NIS) must meet requirements related to maritime safety and environmental protection as required by Norwegian laws and regulations.

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<sup>21</sup> The Norwegian Maritime Code, Section 11.

In addition, Norwegian fishing vessels that have obtained a commercial licence are registered in the Record of Fishing Vessels, which is maintained by the Directorate of Fisheries.

NOR is established under the Norwegian Maritime Code and detailed requirements regarding registration are set out in the Regulation on the registration of ships in the Norwegian ordinary ship register (NOR).<sup>22</sup> Norwegian fishing vessels with an overall length of less than 15 meters shall be entered in NOR on the request of the owner if the vessel is required to be registered under the Participation Act. A fishing vessel with an overall length of less than 7 meters and not subjected to the Participation Act may be registered in NOR, subject to a written declaration from the owner that the vessel will be used, solely or mainly, for the purpose of trade, stating the nature of such trade.

The NIS is a voluntary register open to passenger vessels, cargo vessels, hovercrafts and movable installations.<sup>23</sup> Detailed requirements regarding registration are set out in the Regulation on the registration of ships in the Norwegian International Ship Register (NIS).<sup>24</sup> Fishing vessels cannot be registered in this register, but carrier vessels and other vessels which may be involved in fishing related activities may be registered in NIS. However, vessels may not be registered in NOR and NIS at the same time.

The Record of Fishing Vessels is established under the Participation Act and detailed requirements regarding registration of vessels are set out in the Regulation on commercial licence, register and marking of fishing vessels.<sup>25</sup> All vessels holding a commercial licence shall be registered in the Record of Fishing Vessels regardless of size.

### 3.1.1 Vessel marking (Criteria 14a)

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14. *The flag State follows minimum requirements, such as:*  
(a) *the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels and relevant requirements of the International Maritime Organization;*
- 

There are two sets of marking obligations applicable to Norwegian fishing vessels.<sup>26</sup>

When entered into NOR, general requirements on marking and identification apply. All vessels shall be assigned a call sign by the Norwegian Maritime Authority. The call sign shall be permanently marked and the name of the vessel shall be displayed forward and aft to make it visible from both sides. The display identification number issued by the International Maritime Organization (IMO) is not applicable to fishing vessels.

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<sup>22</sup> Regulation on the Registration of ships in the Norwegian ordinary ship register (NOR) of 30 July 1992 No. 593

<sup>23</sup> Act of 12 June 1987 No. 48 relating to a Norwegian international ship register (NIS), Section 1

<sup>24</sup> Regulation on the Registration of ships in the Norwegian international ship register (NIS) of 30 July 1992 No. 592

<sup>25</sup> The Participation Act, Chapter V and Regulation on commercial licence, register and marking of fishing vessels of 7 December 2012 No. 1144

<sup>26</sup> Regulation on ship's name, call sign, marking and home port, etc. of 27 June 2002 No. 754 and Regulation on commercial licence, register and marking of fishing vessels of 7 December 2012 No. 1144

Furthermore, all fishing vessels registered in the Record of Fishing Vessels are required to display a specific identity sign which includes information on its home county and municipality.

Both sets of marking obligations incorporate the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels, as well as relevant requirements of the IMO, and thereby also encompass requirements related to vessel marking adopted by the RFMOs to which Norway is a party.

### 3.1.2 Information on vessel owners and operators (Criteria 14b)

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14. The flag State follows minimum requirements, such as:
- (b) information on vessel owners and operators which identifies effective beneficial owners and operators;
- 

NOR and NIS shall include information on *inter alia* the registered ownership and the nationality of the owner (the registered owner is not necessarily the ultimate beneficial owner). Hence, the registries contain overviews of the continuous successions of owners back to the builder, or, if a vessel has been registered in another State prior to requesting registration in NOR or NIS, the applicant shall provide documentation back to the last registered owner of the previous register. Further, when a vessel is transferred from the register of another State, a certificate of deletion from that register shall be submitted to NOR or NIS. In addition all vessels registered in NOR and NIS are issued a certificate of nationality/registry, which includes information on *inter alia* the name and address of its owner. The certificate of nationality/registry shall be kept on board the vessel. If the operation of the vessel is carried out by another company and not the company owner, information about the manager/operating company shall be registered in NOR or NIS.

The Record of Fishing Vessels includes information on the owner of the fishing vessel and its co-owner(s): their VAT number, national identity number, full name, business address, address of residence and postal address. When applying for a commercial licence, information on all underlying companies and owners shall be provided in order to identify potential beneficial owners. The owner of the fishing vessel is required to notify all changes regarding sale of fishing vessel, re-location, reconstruction, shipwreck etc. Changes related to ownership must be approved by the Directorate of Fisheries. If the fishing vessel is sold or not used for commercial fishery, the owner shall ask it be removed from the register.

### 3.1.3 Information on the history of the vessels prior flag and name changes (Criteria 14c)

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14. *The flag State follows minimum requirements, such as:*  
(c) *information on the history of the vessel identifies prior flag and name changes; and*
- 

The Maritime Authority shall approve changes to the name of vessels registered in NOR and NIS. Further, when a vessel is transferred from the register of another State, a certificate of deletion from that register shall be submitted to NOR or NIS, and shall include previous flag and previous name. In accordance with SOLAS<sup>27</sup>, all passengers and cargo vessels of 500 gross tonnage and upwards engaged in international trade, must carry a Continuous Synopsis Record (CSR) file on board. The CSR is a record of all changes of owner, flag, name, class, International Safety Management Code (ISM) etc., and are issued by the Maritime Authority when any such changes are documented and registered.

The Record of Fishing Vessel includes information on previous names of the fishing vessel.

### 3.1.4 Characteristics of the vessel (Criteria 14d)

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14. *The flag State follows minimum requirements, such as:*  
(d) *characteristics of the vessel.*
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The Record of Fishing Vessels, NOR and NIS all contain information regarding the vessel characteristics, such as information on the name of the vessel, its identification signal and specific identity sign, length and breadth of the vessel, gross and net tonnage; place and year of construction etc.

### 3.1.5 Exchange of information (Criteria 15)

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15. *The flag State cooperates with other States by exchanging information on registration, deregistration and suspension of registration of vessels, all as part of the procedure to verify a vessel's record and, where applicable, history for purposes of registration, deregistration and suspension of registration.*
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Norway has not established formal routines for exchanging information on registration, deregistration and suspension of registration of vessels with other States. However, NOR, NIS and the Record of Fishing Vessels are available electronically and information is also provided on request.

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<sup>27</sup> Full title: «The International Convention for the Safety of Life at Sea»

### 3.1.6 Verification of vessel history (Criteria 16a)

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16. *The flag State follows registration procedures, which include:*
- (a) *verification of vessel history;*
- 

The Directorate of Fisheries has established an IUU vessel list, which is a compilation of the IUU vessel lists of RFMOs to which Norway is a member. When an application for registration in NOR or NIS is received, the vessel history is verified by checking the IUU vessel list. Furthermore, for Norwegian fishing vessels, there are procedures for checking the history of compliance before including them in the Record of Fishing Vessels.

### 3.1.7 Refusal of registration (Criteria 16b)

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16. *The flag State follows registration procedures, which include:*
- (b) *grounds for refusal of registration of the vessel, including, to the extent possible, that it is on an IUU fishing vessel list or record, or is registered in two or more States;*
- 

Vessels included on the Norwegian IUU vessel list, shall be refused registration both in NOR and in NIS and thus refused to fly the Norwegian flag.<sup>28</sup>

Furthermore, a commercial licence may be refused if the owner of the fishing vessel or any person who has operated a fishing vessel on behalf of the owner has seriously and/or repeatedly violated provisions laid down in or issued pursuant to the Participation Act or other fisheries legislation.<sup>29</sup>

In order to avoid registration in two or more States, a vessel which is transferred from abroad must enclose a certificate of deletion from the prior register for it to be registered in NOR or NIS.<sup>30</sup> Parallel registration is not allowed.

### 3.1.8 Deregistration requirements (Criteria 16c)

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16. *The flag State follows registration procedures, which include:*
- (c) *deregistration requirements;*
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If a vessel registered in NOR or NIS is included on the Norwegian IUU vessel list, it may be deleted from NOR/NIS.<sup>31</sup> If vessels are delisted by the relevant RFMOs, it will also be removed from the Norwegian IUU vessel list and hence, may be included in NOR or NIS and obtain a Norwegian flag, provided that the other requirements to be registered in NOR or NIS are met.

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<sup>28</sup> Regulations of 30 July 1992 Nos. 592 and 593

<sup>29</sup> The Participation Act, Section 7

<sup>30</sup> Regulations of 30 July 1992 Nos. 592 and 593

<sup>31</sup> Ibid.

### 3.1.9 Notification of changes and regular update requirements (Criteria 16d)

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16. *The flag State follows registration procedures, which include:*  
(d) *notification of changes and regular update requirements; and*
- 

Notice of changes to the information provided to NOR or NIS shall be provided by the owner to the Maritime Authority as soon as possible and no later than 30 days after the change or event. Similarly, the Directorate of Fisheries shall approve all changes to information provided in the application for a commercial fishing licence and consequently registered in the Record of Fishing Vessels. NOR, NIS and the Record of Fishing Vessels are all continuously updated.

### 3.1.10 Coordination of registration etc. (Criteria 16e)

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16. *The flag State follows registration procedures, which include:*  
(e) *coordination of registration among relevant agencies (e.g. fisheries, merchant marine) and with prior flag States to determine whether there are pending investigations or sanctions that may provide a motive for flag hopping, that is to say, the practice of repeated and rapid changes of a vessel's flag for the purposes of circumventing conservation and management measures or provisions which have been adopted at a national, regional or global level or of facilitating non-compliance with such measures or provisions.*
- 

The coordination between the Directorate of Fisheries and the Maritime Authority is undertaken by stipulating that a fishing vessel cannot be entered into NOR before it has been granted a commercial licence.<sup>32</sup> Furthermore, there are meetings on a regular basis between the two authorities.

If a ship is acquired from abroad, it cannot be registered unless the notice is accompanied by a certificate from the appropriate authority in the foreign country to the effect that the ship is not entered in the ship register or the shipbuilding register of that country, or that it will be deleted from such a register upon registration in another country.<sup>33</sup> Vessels that are on IUU vessel lists of RFMOs cannot be registered in NOR or NIS, cf. paragraph 3.1.7.

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<sup>32</sup> The Participation Act, Section 23

<sup>33</sup> The Norwegian Maritime Code, Section 13

### 3.1.11 Transparency and accessibility (Criteria 17)

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17. *The flag State's registration procedures are accessible and transparent.*

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The Maritime Authority provides an overview of the conditions for vessels to be registered in NOR and NIS at their websites. Information regarding the Record of Fishing Vessels is available at the website of the Directorate of Fisheries.<sup>34</sup>

Furthermore, the acts and regulations setting out the registration procedures are available at [www.lovddata.no](http://www.lovddata.no), which provides access to a compilation of online legal instruments. Acts and regulations relevant to fisheries are also published on the website of the Directorate of Fisheries.<sup>35</sup> The Maritime Authority provides non-authentic translations of maritime legislation on its websites.

### 3.1.12 Registration of vessels with a history of non-compliance (Criteria 18)

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18. *The flag State avoids registration of vessels with a history of non-compliance, as appropriate, except where:*

- (a) the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or*
  - (b) having taken into account all relevant facts, it determines that flagging the vessel would not result in IUU fishing or fishing related activities in support of such fishing.*
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This is avoided as vessels on the Norwegian IUU vessel list are denied registration and the compliance history of Norwegian vessels is checked, cf. paragraph 3.1.7. The exceptions referred to in the Criteria 18 a) and b) do not apply.

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<sup>34</sup> [www.sdir.no](http://www.sdir.no) and [www.fiskeridir.no](http://www.fiskeridir.no)

<sup>35</sup> <https://fiskeridir.no/Yrkesfiske/Regelverk-og-reguleringer/J-meldinger>

### 3.1.13 *The link between registration and authorization (Criteria 19)*

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19. *The flag State conducts the registration of a vessel and issues an authorization to engage in fishing and fishing related activities in a coordinated manner, that ensures each gives appropriate consideration to the other, and appropriate links exist between the operation of the vessel registers and the records of vessels referred to in paragraph 4. Where such functions are not undertaken by one agency, the flag State ensures that sufficient cooperation and information sharing exists between the agencies responsible for those functions.*

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As explained above, a fishing vessel cannot be entered into NOR unless it has been included in the Record of Fishing Vessels. With regard to vessels involved in fishing related activities, Norway has no general system for authorization, c.f. paragraphs 2.3.3 and 4.1.1.

### 3.1.14 *Refusal of parallel registration (Criteria 20)*

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20. *The flag State refuses registration of vessels that already hold a registration from another State, except in the case of a temporary parallel registration.*

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Cf. paragraph 3.1.7.

### 3.1.15 *Inter-governmental exchange of registry data (Criteria 21)*

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21. *The flag State makes registry data available to relevant internal government users.*

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With regard to vessel registry data this is coordinated between fisheries and maritime authorities on a case-by-case basis and through regular meetings.

### 3.1.16 *Publication of registry data (Criteria 22)*

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22. *The flag State makes registry data publicly available and easily accessible subject to any applicable confidentiality requirements.*

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The registry data concerning NOR and NIS is made available by the Maritime Authority and by the Directorate of Fisheries concerning the Record of Fishing Vessels on their websites.<sup>36</sup>

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<sup>36</sup> [www.sdir.no](http://www.sdir.no) and [www.fiskeridir.no](http://www.fiskeridir.no)

### 3.1.17 Prevention of flag hopping (Criteria 23)

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23. *The flag State takes all practicable steps, including the denial to a vessel of the entitlement to fly that State's flag, to prevent flag hopping.*

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In the context of these guidelines, flag hopping is used to circumvent applicable conservation and management measures. The Norwegian regime addresses this problem through prohibition of registration of IUU vessels in NOR and NIS and through the requirements to obtain commercial licences.

### 3.1.18 Settlement of pending sanctions before deregistering (Criteria 24)

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24. *The flag State settles pending sanctions against a vessel before it deregisters the vessel, where applicable.*

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Under the Coast Guard Act the Prosecuting Authority may request a court decision on encumbrance to ensure the payment of fines, confiscation and legal costs that the vessel may be subjected to.<sup>37</sup> The condition is that there is reason to believe that the completion of the penal procedures may be in vain or endangered. A vessel subjected to encumbrance may not leave the designated port. Further, the vessel may not be deregistered from NIS or NOR without the written consent of the right holder.<sup>38</sup>

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<sup>37</sup> The Coast Guard Act, Section 35

<sup>38</sup> The Norwegian Maritime Code, Section 28

### 3.1.19 Record of vessels (Criteria 25)

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25. *The flag State maintains a record of vessels referred to in paragraph 4 and flying its flag, and includes, for vessels authorized to engage in fishing and fishing related activities on the high seas, all the information set out in paragraphs 1 and 2 of Article VI of the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the “Compliance Agreement”). It may also include, inter alia:*

- (a) the previous names, if any and if known;*
  - (b) name, address and nationality of the natural or legal person in whose name the vessel is registered;*
  - (c) name, street address, mailing address and nationality of the natural or legal persons responsible for managing the operations of the vessel;*
  - (d) name, street address, mailing address and nationality of natural or legal persons with beneficial ownership of the vessel;*
  - (e) name and ownership history of the vessel, and, where this is known, the history of noncompliance by that vessel, in accordance with national laws, with conservation and management measures or provisions adopted at a national, regional or global level; and*
  - (f) vessel dimensions, and where appropriate, a photograph, taken at the time of registration or at the conclusion of any more recent structural alterations, showing a side profile view of the vessel.*
- 

As explained in the introduction, Norway has established a Record of Fishing Vessels which includes essential information on all Norwegian fishing vessels authorized for commercial fishing. More specifically, the Record of Fishing Vessels shall include the following:<sup>39</sup>

- i. information about the vessel: specific identity sign, call sign, name of the vessel, electronical identity number issued by the Directorate of Fisheries, IMO number, maximum length, breadth, gross tonnage, year of construction/reconstruction, hull material, year of engine construction, engine power and building certificate;
- ii. information about the owner of the vessel and its co-owner(s): their VAT number, national identity number, full name, business address, address of residence and postal address; and
- iii. special licences and annual permits.

### 3.1.20 Record standards (Criteria 26)

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26. *The flag State requires records of vessels to be kept in accordance with relevant subregional, regional and international standards and requirements.*

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The requirements of the Record of Fishing Vessels applies to all Norwegian flagged fishing vessels worldwide and is in accordance with international standards and requirements, including the requirements of RFMOs to which Norway is a contracting party.

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<sup>39</sup> Regulation on commercial licence, register and marking of fishing vessels of 7 December 2012 No. 1144

### 3.1.21 Updating of the Norwegian Record of Fishing Vessels (Criteria 27)

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27. *The flag State regularly updates national vessel registries and records.*

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The owner of a fishing vessel is required to notify all changes regarding sale of vessel, ownership, re-location, reconstruction, scrapping etc. If a fishing vessel is sold or not used for commercial fishing, the owner shall ask it to be removed from the register.

The Record of Fishing Vessels is continuously updated.

### 3.1.22 Verification of vessel records and history (Criteria 28)

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28. *The flag State effectively carries out, prior to registration, verification of vessel records and, where applicable, history.*

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Prior to registration of a vessel in NOR or NIS, a certificate of deletion from the previous register is required and there are procedures to verify that the certificate is authentic. As a party to the Apostille Convention,<sup>40</sup> Norway cooperates with other parties concerning certification of legal documents that includes certificates of deletion. For documents issued by non-parties to the Apostille Convention, the procedures are carried out in accordance with relevant States' rules and will ultimately be legalized by a Norwegian foreign station. NIS and NOR will also receive and keep a copy of the complete CSR history of the vessel.

## 4. Authorizations (Criteria 29 - 30)

### 4.1 Authorization regime (Criteria 29)

Norway shares more than 90 % of its fish stocks with neighboring countries and some fish stocks also straddle into the high seas. Management decisions for these stocks are agreed on an annual basis between relevant States and compatible measures are established by relevant RFMOs. These also include reciprocal access agreements. The authorization system described below reflects these arrangements. The agreements are based on scientific advice provided by ICES and aim to ensure sustainability of the relevant stocks.

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<sup>40</sup> The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of 5 October 1961

#### 4.1.1. Scope (Criteria 29a)

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29. *The flag State has in place a regime for authorizing fishing and fishing related activities (e.g. licensing), which ensures that no vessel is allowed to operate unless so authorized in a manner consistent with international law and with the sustainability of the relevant stocks, including:*

*(a) appropriate scope for authorization of fishing and fishing related activities, including conditions for the protection of marine ecosystems;*

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According to the Participation Act, all Norwegian fishing vessels are required to hold a commercial licence, and in most instances, also need a special licence, an annual permit or a foreign fishing licence to be admitted to participate in a particular fishery, cf. paragraph 2.3.2.

Furthermore, fishing on the high seas is prohibited, unless the vessel has been authorized. Authorizations are granted on an annual basis and only if the vessel will have fishing rights within areas managed by an RFMO to which Norway is a party.<sup>41</sup> Furthermore, it is prohibited to engage in fishing operations in areas under the jurisdiction of another State unless the vessel, based on an agreement between that State and Norway, has been granted an authorization; or based on an agreement between that State and the vessel owner that has been approved by Norwegian authorities.<sup>42</sup>

As explained in paragraph 2.3.3 Norway has no general system for authorizing vessels involved in transshipment. This is also the case concerning other fishing related activities and should be addressed by the Norwegian authorities.

#### 4.1.2 Prior assessment of vessel compliance (Criteria 29b)

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29. *The flag State has in place a regime for authorizing fishing and fishing related activities (e.g. licensing), which ensures that no vessel is allowed to operate unless so authorized in a manner consistent with international law and with the sustainability of the relevant stocks, including:*

*(b) prior assessment of a vessel's history of compliance and ability to comply with applicable measures; and*

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A commercial licence and a special licence, or a foreign fishing licence, are required for a vessel to be authorized to conduct fishing,<sup>43</sup> and there are procedures for checking the history of compliance before including the fishing vessels in the Record of Fishing Vessels. An application for a commercial licence may be rejected if the vessel owner or operator have been involved in a serious offence of fisheries legislation or repetition thereof.<sup>44</sup> A ministerial directive refers to Article 21(11) of UNFSA as relevant in order to assess the seriousness of an infringement.

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<sup>41</sup> Regulation on fishing in areas beyond national jurisdiction of 4 March 1998 No. 173

<sup>42</sup> Regulation on fishing in areas under jurisdiction of another State of 25 July 2016 No. 943

<sup>43</sup> Regulation on commercial licence, register and marking of fishing vessels of 7 December 2012 No. 1144

<sup>44</sup> The Participation Act, Section 7

#### 4.1.3 Minimum information requirements (Criteria 29c)

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29. The flag State has in place a regime for authorizing fishing and fishing related activities (e.g. licensing), which ensures that no vessel is allowed to operate unless so authorized in a manner consistent with international law and with the sustainability of the relevant stocks, including:

(c) minimum information requirements in the authorization that allow identification of accountable persons, areas and species, including:

(i) the name of the vessel, and, where appropriate, the natural or legal person authorized to engage in fishing and fishing related activities;

(ii) the areas, scope and duration of the authorization to engage in fishing and fishing related activities;

(iii) the species, fishing gear authorized, and where appropriate, other applicable management measures; and

(iv) relevant conditions under which an authorization is issued that may, where required, include those in paragraph 47 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing (the "IPOA-IUU"), as shown in Annex 1.

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Norwegian vessels are controlled by means of licences and authorizations. In addition annual quota regulations are established. Regulations have also been adopted which include, among other things, requirements for recording and reporting of catches, implementation of VMS and special requirements related to transshipment operations. Concerning high seas fishing, an annual authorization includes the following information: Vessel name, radio call sign, national registration number, IMO-number, name and address of owner, fishing area(s), target species, type of vessel, gross register tonnage (GRT), length and engine power.<sup>45</sup> Additional obligations might be imposed by RFMOs, for example is a fishing plan, and a data and research plan required for fishing Patagonian toothfish in the CCAMLR area.

## 4.2 Implementation of the authorization regime (Criteria 30)

### 4.2.1 Assessment of compliance ability (Criteria 30a)

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30. The flag State effectively implements a regime for authorizing fishing and fishing related activities (e.g. licensing), including issuing an authorization only where it is satisfied that:

(a) the vessel has the ability to comply with the terms and conditions of the authorization;

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Assessment of the ability of the vessel to comply with the obligations related to fishing, are undertaken when the vessel is granted a commercial licence and entered into the Record of Fishing Vessels.

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<sup>45</sup> Regulation on registration and reporting in relation to fishing in areas beyond national jurisdiction of 30 June 1999 and Regulation on fishing in areas beyond national jurisdiction of 25 July 2016 No. 943

#### 4.2.2 Exercise of jurisdiction and control (Criteria 30b)

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30. *The flag State effectively implements a regime for authorizing fishing and fishing related activities (e.g. licensing), including issuing an authorization only where it is satisfied that:*
- (b) *it can effectively exercise its jurisdiction and control over the vessel to ensure compliance with applicable conservation and management measures; and*
- 

Chapter 6 of the Marine Resources Act provides a wide range of regulatory powers to the Ministry to issue regulations on control and enforcement, while chapter 7 focuses on responsibilities of other institutions to undertake control, and ensuring compliance with fisheries legislation. The Directorate of Fisheries is responsible for MCS relating to participation in, searching for, harvesting, marketing, production, import and export of wild living marine resources in accordance with the Marine Resources Act and the Participation Act. Inspections are carried out on the basis of risk assessments, and inspectors from the Directorate of Fisheries shall be given unimpeded and direct access to vessels and relevant documents, accounts, objects and information, as well as to shipping company offices, onshore facilities and the premises of all others who possess, transport, store, process or in other ways handle wild living marine resources for commercial purposes.

In addition, the Coast Guard shall monitor and control that the provisions of the Marine Resources Act and the Participation Act and subsidiary legislation are complied with.<sup>46</sup> Key components of the control system are contained in the ERS Regulation,<sup>47</sup> which includes detailed VMS requirements and electronic reporting obligations concerning port departure, daily catches, port entry, and transshipment. Installation and function requirements of VMS are addressed in a specific regulation.<sup>48</sup> As described above, the Directorate of Fisheries has established an FMC, which is manned 24/7. Both the FMC, the inspectors of the Directorate of Fisheries and the Coast Guard have access to VMS and ERS information. Another important element of the control system is the obligation to weigh all landings from each vessel separately, and to complete and sign landing notes and sales notes.<sup>49</sup> It should also be noted that the Coast Guard participate in RFMO control schemes, and that Norway has entered into a number of bilateral agreements in the field of control, providing a basis also for flag State actions for violations in areas beyond flag State jurisdiction.

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<sup>46</sup> The Coast Guard Act, Section 9

<sup>47</sup> Regulation on position reporting and electronic reporting of 21 December 2009

<sup>48</sup> Regulation on position reporting equipment and installation of 24 March 2010

<sup>49</sup> The Marine Resources Act, Section 39 and Regulation on landing notes and sales notes of 6 May 2014

#### 4.2.3 Enforcement jurisdiction (Criteria 30c)

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30. *The flag State effectively implements a regime for authorizing fishing and fishing related activities (e.g. licensing), including issuing an authorization only where it is satisfied that:*

*(c) it can effectively exercise its enforcement jurisdiction and authority over the holder of the authorization.*

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Norway only authorizes vessels to operate in RFMO areas to which it is a member. Those RFMOs have in place monitoring, control and surveillance requirements that include reciprocal inspection measures. Any serious violation by a Norwegian vessel will be acted upon expeditiously by the Norwegian authorities.

## 5. Monitoring, control, surveillance and enforcement (Criteria 31 - 38)

### 5.1 Control regime (Criteria 31a – 31d)

#### 5.1.1 Responsible authority and powers (Criteria 31a)

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31. *The flag State implements a control regime over vessels flying its flag that includes, as a minimum:*

*(a) legal authority to take control of the vessels (e.g. denial of sailing, recall to port);*

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The Coast Guard has the main operative responsibility to monitor and control fisheries at sea – which includes both fisheries compliance control and criminal investigations. The Coast Guard and the Police both have police authority at sea and may search vessels and crew, arrest crew, confiscate any goods and make use of other penalized coercive measures, including denial of sailing, in accordance with the requirements in the Criminal Procedure Act.<sup>50</sup> Furthermore, the Coast Guard and the Prosecuting Authority have the authority to recall vessels to port, including by taking physical control of the vessel, when there is probable cause of criminal offense under the Marine Resources Act or the Participation Act.

If there is suspicion of a criminal offence at sea, the Coast Guard may start an investigation and secure evidence in accordance with the Criminal Procedure Act. When the Coast Guard undertakes a criminal investigation, this takes place under the formal responsibility of the Prosecuting Authority and the relevant police district. Pending the result, the Coast Guard may settle the case at sea or may arrest the vessel and order it to port. Since the Coast Guard has limited police authority, the criminal investigations will start at sea but be taken over by the Police when the vessel is in port. The Police, under the authority of the Prosecuting Authority, has the main responsibility for investigating criminal violations of the fisheries legislation.

The Directorate of Fisheries conduct fisheries compliance control, and inspectors from the Directorate of Fisheries also undertake MCS at sea, focusing on coastal areas. The Marine

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<sup>50</sup> The Coast Guard Act, Sections 21 - 27

Resources Act provides that the Directorate of Fisheries may, during inspections, issue orders to stop a vessel, to haul any gear, and stop other activities carried out on board a vessel.<sup>51</sup> Moreover, the Directorate of Fisheries may stop means of transport and may seal gear and facilities for the storage of wild living marine resources, documents, relevant information and objects. The Police shall provide the Directorate of Fisheries with any assistance and protection needed to conduct inspections.

#### 5.1.2. *Up-to-date records (Criteria 31b)*

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31. *The flag State implements a control regime over vessels flying its flag that includes, as a minimum:*

*(b) establishment and maintenance of an up-to-date record of vessels;*

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The Record of Fishing Vessels, as well as NOR and NIS are regularly updated, cf. paragraph 3.1.9.

#### 5.1.3 *Monitoring tools (Criteria 31c)*

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31. *The flag State implements a control regime over vessels flying its flag that includes, as a minimum:*

*(c) monitoring tools, such as vessel monitoring systems, logbooks/documentation, and observers;*

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The ERS Regulation<sup>52</sup> requires position reports to be sent at a minimum every hour:

- i. if the vessel is at or above 15 meters overall length and operating in Norwegian waters or in areas under the jurisdiction of another State,
- ii. if the vessel is at or above 12 meters overall length and operating in the EU-zone, the North Sea or in Skagerrak,
- iii. any vessel operating in areas beyond national jurisdiction.

The regulation also requires vessels to communicate catch and activity data by electronic means to the FMC, regardless of whether they have been fishing or not, as long as they are at sea. Data to be provided are report on departure from port, daily catch reports, report on port entry and reports on transshipment. Relevant catch and activity data are forwarded to the RFMOs in accordance with their reporting requirements.

The FMC is operational 24 hours a day, seven days a week and is responsible for processing various reporting schemes imposed on the Norwegian fishing fleet while at sea, including the position reports and the various electronic catch and activity reports. Any interruption in the transmission of the electronic reporting will be followed up by the FMC. By combining the

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<sup>51</sup> The Marine Resources Act, Section 46

<sup>52</sup> Regulation on position reporting and electronic reporting of 21 December 2009

various data that are subject to electronic reporting, the authorities are able to locate fishing activity with great precision. The Coast Guard and sales organizations have access to the VMS and ERS reports in real time and use this system to check against catch on board when inspecting fishing vessels at sea.

With regard to observers, the Marine Resources Act provides that inspectors and observers may be placed on board fishing vessels.<sup>53</sup> There is a surveillance service within the Directorate of Fisheries, which carries out inspections of fishing vessels at sea based on risk assessments, either on board a commercial fishing vessel or in cooperation with the Coast Guard. Furthermore, Norwegian vessels shall carry observers as required by relevant RFMOs.

In addition to the above, Norway has established an Analytical Unit in cooperation between the Directorate of Fisheries and the Coastal Administration. The main task of this unit is to monitor and provide risk based analyses with regard to identifying suspicious vessel activities, as requested by the Directorate of Fisheries, the Coast Guard, the Police or any other Norwegian government agency as well as other States and international organizations. These analyses form basis for further actions, such as inspections at sea and in port.

#### 5.1.4 Requirements – recording and reporting (Criteria 31d)

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31. *The flag State implements a control regime over vessels flying its flag that includes, as a minimum:*

*(d) mandatory requirements regarding fisheries-related data that must be recorded and reported in a timely manner by the vessels (e.g. catches, effort, bycatches and discards, landings and transshipments); and*

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As mentioned above, the ERS Regulation<sup>54</sup> requires fishing vessels to send electronic catch and activity data to the Directorate of Fisheries. This means that at least two hours after leaving port but prior to starting fishing, vessels are required to send information regarding catch on board, estimated time and position for the planned fishing activities, as well as target species. Thereupon, vessels are required to send, on a daily basis, information regarding the date, time, location (latitude and longitude), catch (species and weight), including any bycatches, for each fishing operation/haul. At least two hours prior to port entry, the vessels shall send information regarding catch on board, catch to be landed and port of call.

Vessels are also required to report electronically when transshipping, cf. paragraph 2.3.3. It is noted that according to the ERS Regulation,<sup>55</sup> a Norwegian receiver vessel carrying catch from a foreign vessel in the NEAFC Convention Area or the NAFO Regulatory Area, is required to forward prior notice for port entry in accordance with the NEAFC and NAFO port State measures.

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<sup>53</sup> The Marine Resources Act, Section 47

<sup>54</sup> Regulation on position reporting and electronic reporting of 21 December 2009

<sup>55</sup> Regulation on position reporting and electronic reporting of 21 December 2009

Furthermore, the Marine Resources Act<sup>56</sup> provides that the owner or user of a harvesting or transport vessel and the one that receives the catch shall complete a landing declaration. All catches are to be weighed and recorded on landing declarations or sales notes, which shall include information regarding the catch, including date, area, gear and authorization, and the landing, including time and date the landing is completed, species, product form, size, quantities etc.<sup>57</sup>

The landing declaration and sales notes are transmitted electronically and shall immediately be forwarded to the relevant sales organization and the Directorate of Fisheries, for control of fishing rights and deduction from the vessel quota. The requirements for landing and sales notes apply to Norwegian vessels regardless of whether they are landing - in Norwegian ports or abroad.

Furthermore, if Norwegian vessels are landing catch from the NEAFC Convention Area in the port of any NEAFC Contracting Party, they are subject to the NEAFC Port State Control Scheme. This is an advanced, well-functioning electronic system requiring vessels to send a prior notification with information regarding the vessel and catch to the port State. Before the port State decides whether the vessel may use its port, the flag State is contacted and asked to confirm that the catching vessel had sufficient quota for the species declared, the quantities on board have been duly reported and taken into account for the calculation of applicable catch and effort limitations, the vessel was authorized to fish in the area declared, and the presence of the vessel in the declared catch area has been verified by VMS data.

This system allows Norway, as a flag State, to monitor landings in foreign ports. NAFO has adopted similar regulations, but the system is not electronic.

## 5.2 Inspection regime (Criteria 31e)

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31. *The flag State implements a control regime over vessels flying its flag that includes, as a minimum:*

(e) *an inspection regime, including at sea and at port.*

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Norway has in place an inspection regime, both at sea and in port. While the Coast Guard conducts inspections at sea, in cooperation with the Directorate of Fisheries, the Directorate and the sales organizations conduct inspections in ports and through the value chain. The three agencies cooperate closely and establish annual National Strategic Risk Management Plan (NSRV), describing the prioritized areas for monitoring, control and surveillance (MCS) of fisheries.

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<sup>56</sup> The Marine Resources Act, Section 39

<sup>57</sup> Regulation on landing declarations and sales notes of 6 May 2014

### 5.2.1 *Inspections at sea*

The Coast Guard conducts inspections at sea based on weekly operational risk assessments, which build, among others, on the NSRV. Furthermore, the inspection services of the Directorate of Fisheries inspect activities on the fishing grounds, and may be placed on commercial fishing vessels based on risk assessments.

The Marine Resources Act<sup>58</sup> provides that anyone inspected in accordance with provisions issued in or under that Act, shall cooperate with the competent authorities during inspections, among other things by answering calls on the radio or other means of communication.

NEAFC has established a reciprocal inspection system, whereby inspectors of one Contracting Party shall be allowed to carry out inspections on vessels from other Contracting Parties operating in the NEAFC Regulatory Area. In line with this, Norway has adopted the NEAFC inspection regulation,<sup>59</sup> obliging the masters of vessels to cooperate with the NEAFC inspectors and to ensure their safety throughout the inspection, cf. NEAFC Scheme of Control and Enforcement, Chapter IV.<sup>60</sup>

NAFO has also established a similar system. The relevant regulations applicable to Norwegian vessels fishing in the NAFO Regulatory Area include a general requirement for those vessels to comply with any requirement specified in or in accordance with the NAFO Convention. Similar provisions are included in the regulations applicable to Norwegian vessels conducting any fishing under the purview of CCAMLR and ICCAT.<sup>61</sup>

The NEAFC inspection regulation should be updated and extended to include the requirements applicable in other relevant RFMOs. The right to board and inspect under UNFSA Article 21 applies regardless of whether the flag State of the vessel is a member of the relevant RFMO, as long as it is a party to UNFSA. Consequently these regulations should also be made general and amended to also apply in waters beyond national jurisdiction covered by RFMOs to which Norway is not a party.

### 5.2.2 *Inspections in port*

The Directorate of Fisheries is responsible for inspections in ports. The Marine Resources Act<sup>62</sup> provides that the Directorate of Fisheries shall be given unimpeded and direct access to vessels when carrying out such inspections, as well as to shipping company offices, onshore facilities and the premises of all others who possess, transport, store, process or in other ways handle wild living marine resources for commercial purposes. This includes access to places where relevant documents and information are kept, and to accounts and relevant documents, objects and information.

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<sup>58</sup> The Marine Resources Act, Section 45

<sup>59</sup> Regulation on mutual rights for inspections for NEAFC Contracting Parties of 19 December 1969

<sup>60</sup> <https://www.neafc.org/mcs/scheme>

<sup>61</sup> Regulation on the fisheries in the Northwest Atlantic of 11 December 2009, Regulation on the fisheries with Norwegian vessels in Antarctica of 13 March 1998 and annual regulations on the fisheries for bluefin tuna

<sup>62</sup> The Marine Resources Act, Section 46

Inspections are based on risk assessments, i.e. on the basis of NSRV. Amongst others Post Audit Controls shall be given priority, and two task forces have been established, one for pelagic species and one for demersal species. National operational risk assessments are also made for particular at-risk fisheries in cooperation between the Directorate of Fisheries, the Coast Guard, the sales organizations and other relevant national control agencies.

Upon landing of catches, the landing data are checked against the fishing rights of the vessel. This task is performed by the sales organizations and the Directorate of Fisheries.

When carrying out inspections, the sales organizations may require unimpeded access to harvesting or transport vessels and to offices, storage facilities and production plants belonging to the purchaser or recipient. In this connection, inspectors from the sales organizations may require unimpeded access to catch logbooks, delivery records, landing and sales notes and accounts. Anyone inspected has a duty to cooperate during such a process.

As explained in paragraph 5.1.4, Norwegian vessels landing abroad may be subject to port state control under relevant RFMO Schemes. In accordance with the relevant RFMO scheme, Norwegian authorities may ask the port State to conduct an inspection of a vessel, providing relevant information regarding vessel and catch. Likewise, most of the bilateral MCS agreements that Norway has entered into with other States include the opportunity to require inspections of Norwegian vessels if they come into port.

### **5.3 Enforcement regime (Criteria 32)**

#### *5.3.1 Capacity to detect and enforce violations (Criteria 32a)*

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*
- (a) *capacity to detect and take enforcement action with respect to violations;*
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As mentioned above, monitoring, control and surveillance of fishing and fishing related activities by Norwegian vessels are based on risk assessments, which include the annual NSRV providing priority areas for the monitoring and control of fisheries, as well as regional strategic assessments, species specific assessments, and the assessments of the Coast Guard and the sales organizations. In addition to the FMC and the Analytical Unit, the Directorate of Fisheries has appointed approximately 90 inspectors and executive officers conducting monitoring and control of fisheries.

A National Advisory Group against Organized Fisheries Crime and IUU-Fishing (FFA) has been formed. The Ministry of Trade, Industry and Fisheries is the coordinating authority. A Steering Group has been established and consists of members from the Higher Prosecuting Authorities, the Ministry of Defence, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Justice and Public Security, the Ministry of Labour and Social Affairs and the Ministry of Trade, Industry and Fisheries.

On the operative level of FFA, a Contact Group has been established and is comprised of members from the Coastal Administration, the Coast Guard, Norwegian Customs, the Directorate of Fisheries, the Directorate of the Police, the National Authority for Investigation and Prosecution of Economic and Environmental Crime, the National Criminal Investigation Service and the Tax Administration.

Furthermore, there is cooperation between the Norwegian fisheries, customs and tax authorities on strategic and operational risk management, and a data compilation project has been created between Norwegian Customs, the Directorate of Fisheries, the Food Safety Authority and the Tax Administration. The Directorate of Fisheries is also cooperating with the Norwegian Metrology Service to ensure that the weights used for landed catch are correct.

The Marine Resources Act also provides that the police shall provide the Directorate of Fisheries with any assistance and protection needed to conduct inspections.<sup>63</sup>

In addition to the above, the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime has established a team tasked with amongst others, criminal offenses related to applicable fisheries legislation.

Both administrative and criminal sanctions may apply to non-compliance. The Directorate of Fisheries is responsible for imposing administrative sanctions, whereas criminal cases are reported to the police. With regard to prosecution, this is carried out by the Prosecuting Authority in the Police or the Regional Public Prosecution Offices. The Regional Public Prosecutor of the counties of Troms and Rogaland has special responsibilities for violations of the fisheries law at sea and provide assistance to local police and prosecutors.

### 5.3.2 Compliance control and investigations (Criteria 32b)

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*
- (b) *authority and capacity to conduct timely investigations of violations, including the establishment of the identity of the violators and the nature of the violations;*
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The Marine Resources Act<sup>64</sup> establishes that the Directorate of Fisheries shall ensure that those to whom the Act applies, comply with its provisions as well as with other legislation on participation in the harvesting, marketing, production, import and export of wild living marine resources. Anyone inspected are required to cooperate with the competent authorities during investigations, among others, by answering calls on the radio or other communication equipment.

As indicated in paragraph 5.1.1, the Act provides the Directorate of Fisheries with a wide range of compliance control tools, as it shall be given unimpeded and direct access to vessels when carrying out such investigations, as well as to shipping company offices, onshore facilities and

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<sup>63</sup> The Marine Resources Act, Section 46

<sup>64</sup> The Marine Resources Act, Chapter 7

the premises of all others who possess, transport, store, process or in other ways handle wild living marine resources for commercial purposes. This includes access to places where relevant documents and information are kept, and to accounts and relevant documents, objects and information.

The Directorate of Fisheries may give orders to stop means of transport and may seal gear and facilities for the storage of wild living marine resources, documents, relevant information and objects. With regard to exchange of information, it is provided that notwithstanding confidentiality requirements, personnel from the Ministry of Trade, Industry and Fisheries and the Directorate of Fisheries may provide other supervisory authorities, the Police or the Prosecuting Authority with any information naturally relating to their duties under that Act. The duty of confidentiality that applies to personnel in other supervisory authorities, the Police and Prosecuting Authority does not prevent them from disclosing such information to the Ministry of Trade, Industry and Fisheries or the Directorate of Fisheries.

The Directorate of Fisheries has the authority to conduct compliance control, whereas criminal investigations are conducted by the police within the framework of the Criminal Procedures Act. At sea, however, the Coast Guard is empowered to conduct both compliance control and, if there are clear grounds for believing that a criminal offence has occurred, to start a criminal investigation pursuant to the Coast Guard Act and within the framework of the Criminal Procedures Act, c.f. paragraph 5.1.1 above.

Anyone who willfully or through negligence contravenes the provisions of the Marine Resources Act is liable to fines or to a term of imprisonment not exceeding one year, unless more severe penal provisions apply. Furthermore, the Coast Guard Act provides that anyone who willfully or through negligence do not comply with instructions, do not provide obliged assistance or information, provide incorrect documents or in other ways try to mislead the Coast Guard or harm evidence, are punished with criminal fines or imprisonment not exceeding six months. In particularly aggravating circumstances imprisonment not exceeding two years may be sentenced. In accordance with the Coast Guard Act the court may also decide to confiscate the vessel.

### 5.3.3 *System concerning the integrity of evidence (Criteria 32c)*

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*
- (c) *an appropriate system for the acquisition, collection, preservation and maintenance of the integrity of evidence;*
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The Coast Guard has the authority to acquire, collect, preserve and maintain the integrity of evidence at sea in accordance with the Coast Guard Act and the Act on Criminal Procedures. The Coast Guard has established various training courses and their inspectors receive special training in collection and preservation of evidence. Usually this training is done by experts from the Directorate of Fisheries, Prosecutors and police officers. If the collection is done as part of

a criminal investigation, the rules of handling of evidence will follow the Criminal Procedure Act.

The inspectors and fisheries officers at the Directorate of Fisheries also receive training in acquisition, collection and maintenance of the integrity of evidence. Furthermore, the Police University College have special training programmes focusing on fisheries crime, which is open for police and other law enforcement officers. This study also trains the students in handling of evidence.

In addition, both the Coast Guard and the Directorate of Fisheries cooperate closely with the police and the Prosecuting Authority in relation to criminal investigations.

#### 5.3.4 Proportionate sanctions (Criteria 32d)

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*
- (d) *a system of sanctions proportionate to the seriousness of the violation and adequate in severity to be effective in securing compliance and to discourage violations, and deprive offenders of benefits accruing from their illegal activities;*
- 

As mentioned above, both administrative and criminal sanctions are applicable to non-compliance by Norwegian vessels.

The sanctioning system is designed according to the types and seriousness of the violations ranging from administrative sanctions such as infringement fines to criminal sanctions such as imprisonment of maximum six years for serious violations. The system is also based on aligning the level of punishment of fisheries offences with other related offences which occurs in the fisheries value chain. The goal is to have approximately the same level of punishment for illegal catch of fish and other violations committed through the value chain, such as tax fraud related to fish trading.

Serious offences committed through gross negligence or willfully, are punishable by a term of imprisonment up to six years. In evaluating whether an offence is serious, special weight shall be given to whether the financial or potential financial gain from the offence was large, whether the offence was committed systematically and over time, and whether it was committed as part of an organized activity.

In order to deprive offenders of benefits accruing from their illegal activities, catches may be confiscated. The same applies to gear, objects, property, facilities or vessels that were used in the contravention. This applies irrespective of who the owner is. Instead of any object, its value may be confiscated wholly or in part from the offender or from those on whose behalf he has acted or from the owner. If lawful and unlawful catches have been mixed together, the entire catch may be confiscated.

The Norwegian system also include administrative confiscation, whereby catches, or the value of catches, harvested or delivered in contravention of provisions laid down in or under the Marine Resources Act or the Participation Act, are confiscated, irrespective of whether the fisherman is found guilty of an offence or not. The objective of this administrative confiscation is to ensure that the fisherman does not receive any unjustified benefit.

### 5.3.5 Cooperation, assistance and information sharing (Criteria 32e)

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*
- (e) *cooperation and mutual legal assistance, including as appropriate information sharing and reporting arrangements with other States, international organizations including RFMO/As relating to enforcement, as well as the timeliness of action following requests for assistance; and*
- 

Norway has entered into a number of bilateral MCS agreements that amongst others provide the opportunity to exchange landing and intelligence data, and coordinated inspections of Norwegian vessels in foreign ports. Such agreements have been concluded with Canada, Faroe Islands, Greenland, Iceland, Morocco and Russia. In addition, Norway has a Memorandum of Understanding (MoU) with the European Union, and a number of agreements have been made with Member States in the European Union in accordance with the MoU. These are Denmark, France, Germany, Ireland, Lithuania, the Netherlands, Poland, Portugal, Spain, Sweden and the United Kingdom.

Furthermore, as a member of CCAMLR, ICCAT, NAFO, NEAFC and SEAFO, Norway cooperates under the relevant provisions of these RFMOs, including with regard to appropriate information sharing and timely follow-up of requests for assistance.

According to the Enforcement Act,<sup>65</sup> there is a Nordic cooperation on forcible recovery of fines given to a legal person from another Nordic State. These States are Denmark, Finland, Iceland, Norway and Sweden. This means that if Denmark (or another Nordic country) arrests a Norwegian fishing vessel for illegal fishing, Norway is obliged by law to assist Denmark in enforcing the recovery of fines issued by Denmark to the Norwegian legal person. The recovery will subsequently be transferred to the Danish treasury. This mechanism is not exclusive to fisheries cases, but applies to any criminal case in the Nordic region.

Norway is also active in, and currently holds the chair of the INTERPOL Fisheries Crime Working Group, which is a forum for cooperation against crimes in the fisheries sector. Through that group police and other law enforcement agencies can connect with each other and request assistance from INTERPOL General Secretariat in transnational operations. All member States of INTERPOL has a 24/7 National Central Bureau (NCB) which has a secure communication channel. The NCB in Oslo is located in the National Criminal Investigation Service where a fisheries liaison officer assists the police in transnational fisheries crime cases.

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<sup>65</sup> The Act of 26 June 1992 No. 86 relating to Enforcement and Provisional Security (the Enforcement Act), Section 4-1

The UN Convention on Transnational Organized Crime has been implemented in the Marine Resource Act. This convention is one of the widest ratified treaties of the UN system and currently holds 183 State parties. The convention is a tool for mutual legal assistance and facilitate police-to-police cooperation in order to prevent and combat transnational organized crime more effectively.

The North Atlantic Fisheries Intelligence Group (NA-FIG) is a regional interagency forum for exchange of intelligence regarding crimes in the fisheries sector primarily between compliance authorities such as fisheries directorates, tax authorities and customs. This group is open to all States with interests in the North Atlantic region.

The North Atlantic Coast Guard Forum (NACGF) is a forum for cooperation between coast guards in this region, which the Norwegian Coast Guard is member. A working group on fisheries enforcement has been created, which gives the coast guards in the region the possibility to exchange best practice and have joint activities.

#### 5.3.6 Consequences of serious violations (Criteria 32f)

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32. *The flag State has in place an enforcement regime, which includes, as a minimum:*  
(f) *prohibition of high seas fishing and fishing related activities by a vessel flying its flag where such vessel has been involved in the commission of a serious violation of relevant subregional or regional conservation and management measures applicable to the high seas, until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with in accordance with its laws.*

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There is no specific provision in Norwegian law providing an automatic prohibition of high seas fishing and fishing related activities if a vessel has been involved in a serious violation of applicable measures established by a relevant RFMO. However, there are several provisions in various laws and regulations applicable in such circumstances, which would provide a similar outcome.

As mentioned under paragraph 4.1.2, an application for a commercial licence may be rejected if the vessel owner or operator has been involved in a serious or repeated offence.<sup>66</sup> If a licence is already provided, it may be revoked.<sup>67</sup> Furthermore, the Act provides that a special licence lapses if the general licence for the vessel lapses or is revoked, and that the provisions regarding the revocation of such licence apply correspondingly to special licences.<sup>68</sup> The Act also provides that vessels shall be deleted from the register of fishing vessels in the event of permanent or provisional revocation or lapsing of the commercial fishing licence.<sup>69</sup>

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<sup>66</sup> The Participation Act, Section 7

<sup>67</sup> Ibid., Section 11

<sup>68</sup> Ibid., Section 18

<sup>69</sup> Ibid., Section 26

In addition to the above, fishing on high seas requires an authorization.<sup>70</sup> This authorization may be revoked if the vessel has acted in contravention of management measures applicable in RFMOs. If the violation is of a criminal nature, the most serious cases which may include high economic benefit or involvement of transnational organized crime has a maximum penalty of six years imprisonment.<sup>71</sup>

## **5.4 MCS efforts (Criteria 33 - 34)**

### *5.4.1 IPOA-IUU (Criteria 33)*

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*33. The flag State undertakes comprehensive and effective monitoring, control and surveillance (MCS) of fishing and fishing related activities, including, to the extent possible, measures and actions described in paragraph 24 of the IPOA-IUU, as shown in Annex 2.*

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Norway has implemented a comprehensive and effective MCS system as described in IPOA-IUU paragraph 24:

1. A scheme for access to waters and resources, including authorization schemes for vessels has been developed, cf. chapter 4.
2. Records of all vessels and their current owners and operators authorized to undertake fishing subject to their jurisdiction is maintained, cf. chapter 4;
3. Norwegian vessels larger than 15 (12) meters are required to provide position reports using VMS in accordance with the relevant national, regional or international standards. In addition, these vessels are required to report catch and activity data electronically, cf. paragraphs 5.1.3 and 5.1.4 above.
4. Observer programmes are implemented as applicable, that is to say the relevant observer obligations in CCAMLR, ICCAT and NAFO are implemented in accordance with applicable requirements;
5. Training and education to all persons involved in MCS operations is provided. The fisheries officers at the Directorate of Fisheries and the Coast Guard are required to attend special training courses. Furthermore, the Police University College has developed a fish crime study, in cooperation with the Directorate of Fisheries.
6. MCS operations are based on risk assessments. As previously mentioned, a National Strategic Risk Management Plan is developed annually in cooperation between the Directorate of Fisheries, the Coast Guard and the sales organizations. Based on this, the organizations develop their own strategic risk analyses for MCS operations. Hence, to the extent possible, operations are planned, funded and undertaken with the view to maximize the ability to prevent, deter and eliminate IUU fishing;

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<sup>70</sup> Regulation on Fishing in Areas Beyond National Jurisdiction of 4 March 1998

<sup>71</sup> The Marine Resource Act, Section 64

7. Industry knowledge and understanding of the need for, and their cooperative participation in MCS activities to prevent, deter and eliminate IUU fishing is promoted through regular meetings with the industry, and by industry participation in relevant RFMO meetings;
8. Knowledge and understanding of MCS issues within national judicial systems are promoted through annual high-level meetings with the Regional Public Prosecutor, as well as courses and seminars in fisheries management for the prosecuting authorities. In addition, the Police University College has developed a special fisheries crime study.
9. Systems for the acquisition, storage and dissemination of MCS data are established and maintained through the VMS reporting requirements, the electronic reporting system, the sales notes systems, and applicable confidentiality requirements are taken into account in the dissemination of relevant information from these systems, including through the adoption of special regulations regarding the record for storing electronic catch and activity data.
10. Cf. paragraph 5.2.1.

#### 5.4.2 Contribution to joint MCS and enforcement efforts (Criteria 34)

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34. *The flag State contributes to joint MCS and enforcement efforts, where applicable.*

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Norway is contributing to joint MCS and enforcement efforts through its active participation and cooperation in various RFMOs, the number of bilateral MCS agreements concluded with relevant States, its active contribution to the development of the FAO Port States Measures Agreement and its implementation into relevant RFMOs: CCAMLR, ICCAT, NAFO, NEAFC and SEAFO, active participation in the NEAFC at sea monitoring of vessels and the NEAFC Port State Control, active participation in Interpol, active participation in the International MCS Network, developing the NA-FIG and contributing actively in this, NACGF and the Fisheries Crime Working Group.

#### 5.5 Action taken in respect of Norwegian IUU fishing vessels (Criteria 35)

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35. *The flag State takes action in respect of vessels flying its flag and identified as participating in IUU fishing or fishing related activities in support of such fishing.*

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This is addressed in paragraphs 2.3.2, 5.3.2 and 5.3.6.

## 5.6 Sharing of evidence etc. (Criteria 36)

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36. *Where the flag State implements an enforcement regime, the evidence regarding violations is diligently gathered and treated, including making available to enforcement authorities of other States and, if applicable, to RFMO/As evidence relating to alleged violations to the extent permitted by domestic law. Violations are investigated and procedures for sanctions initiated in accordance with domestic laws, regulations, policies and practices in a timely manner.*

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Norway has implemented an enforcement regime whereby evidence regarding violations is diligently gathered and treated, cf. comments above. Based on a number of bilateral agreements and the requirements in RFMOs to which Norway is a party, evidence relating to alleged violations will be made available to enforcement authorities of other States and RFMOs, subject to relevant confidentiality requirements. Violations are investigated and procedures for sanctions initiated in accordance with the laws and regulations as mentioned above.

## 5.7 Disputes (Criteria 37)

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37. *Where the flag State implements an enforcement regime and where enforcement actions by flag States are adopted by an RFMO/A, such States ensure that adequate and timely mechanisms to resolve disputes in respect of those actions exist within relevant RFMO/As.*

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Norway will apply dispute settlement procedures adopted by the RFMOs to which we are a party.

## 5.8 Sanctions (Criteria 38)

### 5.8.1 Proportionate to the seriousness (Criteria 38a)

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38. *The flag State implements effective and timely sanctions that include the following:*  
(a) *sanctions are applied in proportion to the seriousness of the violation and are adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and deprive offenders of benefits accruing from their illegal activities;*

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Cf. paragraph 5.3.4.

#### 5.8.2 Promotion of understanding of MCS issues (Criteria 38b)

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38. The flag State implements effective and timely sanctions that include the following:
- (b) the flag State promotes knowledge and understanding of MCS issues within national judicial and administrative systems;
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Cf. paragraph 5.3.3.

#### 5.8.3 Judicial and/or administrative processes (Criteria 38c)

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38. The flag State implements effective and timely sanctions that include the following:
- (c) the flag State has in place judicial and/or administrative processes capable of meeting these Guidelines, to the extent possible, in a timely and effective manner;
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This is addressed in paragraph 5.3.

#### 5.8.4 Compliance with sanctions (Criteria 38d)

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38. The flag State implements effective and timely sanctions that include the following:
- (d) the flag State is capable of ensuring that sanctions are complied with including, where appropriate, preventing the vessel from engaging in IUU fishing or fishing related activities in support of such fishing until sanctions are complied with; and
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Cf. paragraph 5.3.4. In addition it is noted that Norway has an adequate system for the withdrawal of licenses and recovery of possible fines.

#### 5.8.5 Response from requests from other States and/or RFMOs (Criteria 38e)

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38. The flag State implements effective and timely sanctions that include the following:
- (e) the flag State responds in a timely manner to requests from other States or, if applicable, RFMO/As to take measures in respect of vessels flying its flag.
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Norway has an adequate system, which involves the Directorate of Fisheries, the Coast Guard, the Police and the Prosecuting Authority for responding in a timely manner to requests from other States and RFMOs to take measures in respect of vessels flying a Norwegian flag.

**Conditions of authorizations**  
**Paragraph 29(c)(iv)**  
**(IPOA–IUU, paragraph 47)**

Conditions under which an authorization is issued may include, as appropriate:

1. vessel monitoring systems;
2. catch reporting conditions, such as:
  - 2.1 time series of catch and effort statistics by vessel;
  - 2.2 total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery period (nominal weight is defined as the live weight equivalent of the catch);
  - 2.3 discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
  - 2.4 effort statistics appropriate to each fishing method, and
  - 2.5 fishing location, date and time fished and other statistics on fishing operations.
3. reporting and other conditions for transshipping, where transshipping is permitted;
4. observer coverage;
5. maintenance of fishing and related logbooks;
6. navigational equipment to ensure compliance with boundaries and in relation to restricted areas;
7. compliance with applicable international conventions and national laws and regulations in relation to maritime safety, protection of the marine environment, and conservation and management measures or provisions adopted at a national, regional or global level;
8. marking of its fishing vessels in accordance with internationally recognized standards, such as the FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels. Vessels' fishing gear should similarly be marked in accordance with internationally recognized standards;
9. where appropriate, compliance with other aspects of fisheries arrangements applicable to the flag State, and
10. the vessel having a unique, internationally recognized identification number, wherever possible, that enables it to be identified regardless of changes in registration or name over time.

**Monitoring, control and surveillance**  
**Paragraph 33**  
**(IPOA–IUU, paragraph 24)**

*Comprehensive and effective monitoring, control and surveillance (MCS) of fishing may be undertaken from its commencement, through the point of landing, to final destination, including, as appropriate, by:*

- 1. developing and implementing schemes for access to waters and resources, including authorization schemes for vessels;*
- 2. maintaining records of all vessels and their current owners and operators authorized to undertake fishing subject to their jurisdiction;*
- 3. implementing, where appropriate, a vessel monitoring system (VMS), in accordance with the relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry VMS on board;*
- 4. implementing, where appropriate, observer programmes in accordance with relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry observers on board;*
- 5. providing training and education to all persons involved in MCS operations;*
- 6. planning, funding and undertaking MCS operations in a manner that will maximize their ability to prevent, deter and eliminate IUU fishing;*
- 7. promoting industry knowledge and understanding of the need for, and their cooperative participation in, MCS activities to prevent, deter and eliminate IUU fishing;*
- 8. promoting knowledge and understanding of MCS issues within national judicial systems;*
- 9. establishing and maintaining systems for the acquisition, storage and dissemination of MCS data, taking into account applicable confidentiality requirements; and*
- 10. ensuring effective implementation of national and, where appropriate, internationally agreed boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and of inspection officers, and noting that such regimes are provided for in certain international agreements, such as the 1995 UN Fish Stocks Agreement, and only apply to the parties to those agreements.*

## **Regulations implementing RFMO requirements related to specific species, the use of gear and the protection of vulnerable marine ecosystems**

### Regulations implementing relevant CCAMLR requirements

- Regulation on fishing by Norwegian vessels in Antarctica (CCAMLR Area) of 13 March 1998 No 195
- Regulation on catch documentation for import, export and re-export of Patagonian toothfish (*Dissostichus* spp.) of 7 June 2000

### Regulations implementing relevant ICCAT requirements

- Regulation on the fisheries for Bluefin Tuna in 2018 of 6 March 2018 No 307
- Regulation relating to catch documentation for Bluefin tuna (*Thunnus thynnus*) bigeye tuna (*Thunnus obesus*) and swordfish (*Xipias gladius*) of 20 March 2009 No 332

### Regulations implementing relevant NAFO requirements

- Regulation on Cod in the NAFO area in 2018 of 13 December 2017 No 2011
- Regulation related to fishing in the Northwest Atlantic (NAFO-area) of 11 December 2009 No 1507
- Regulation on bottom fishing activities in areas beyond national jurisdiction in the Northwest Atlantic (NAFO area) of 9 February 2009 No 154

### Regulations implementing relevant NEAFC requirements

- Regulation related to the fisheries for Mackerel in 2018 of 15 December 2017 No 2129
- Regulation related to the fisheries for Blue Whiting in 2018 of 30 April 2009 No 471
- Regulation related to the fisheries for Norwegian Spring Spawning Herring in 2018 of 18 December 2017 No 2145
- Regulation related to the fisheries in the Greenland Economic Zone and in the Irminger Sea in 2018 of 8 January 2018
- Regulation on Deep Sea Species in the NEAFC Regulatory Area in 2018 of 12 December 2017 No 2224
- Regulation on the protection of vulnerable marine ecosystems in areas beyond national jurisdiction in the North East Atlantic (NEAFC) of 14 October 2014 No 1303

### Regulations implementing requirements of several RFMO

- Regulation related to sea water fisheries of 22 December 2004 No 1878
- Regulation on the prohibition of fishing and hunting for Basking Shark, Spurdog, Porbeagle and Silky Shark of 13 December 2013