

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (79) 467 final

Brussels, 11 September 1979

Proposal for a COUNCIL REGULATION (EEC) implementing  
Articles XVIII and XXIII of the Convention on Future Multilateral  
Cooperation in the North-west Atlantic Fisheries as regards the  
scheme of joint international enforcement

(Submitted to the Council by the Commission)

COM (79) 467 final



## EXPLANATORY MEMORANDUM

This proposal for a Council Regulation is pursuant to the undertakings entered into by the Community by virtue of its signature of the Convention on Future Multilateral Cooperation in the North-west Atlantic Fisheries (NAFO Convention). It concerns the programme of mutual inspection, in force under the International Convention for the North-west Atlantic Fisheries (ICNAF), and which, under the terms of the NAFO Convention, bind the Contracting Parties to the latter Convention.

In order to implement this mutual inspection programme it is necessary for the Community to adopt certain provisions.

Proposal for a  
COUNCIL REGULATION (EEC)

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Multilateral Cooperation in the North-west Atlantic Fisheries as  
regards the scheme of joint international enforcement

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Com-  
munity, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament, (1)

Whereas, by Council Regulation (EEC) N° 3179/78 of 28 December 1978 (1)  
concerning the conclusion by the European Economic Community of the  
Convention on Future Multilateral Cooperation in the North-west Atlantic  
Fisheries (2), the Community approved this Convention, hereinafter referred  
to as the "NAFO Convention";

Whereas the NAFO Convention entered into force on 1 January 1979 and  
whereas, in accordance with Article XXIII thereof, any pro-  
posal which took effect under the International Convention of 1949  
in respect of the North-west Atlantic Fisheries (ICNAF Convention) at  
the time of the entry into force of the NAFO Convention is to apply  
compulsorily to the contracting parties of the latter Convention in  
the "regulatory area" as defined therein;

Whereas that provision includes within its scope the scheme of joint  
international enforcement in force under the ICNAF Convention;

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(1) O.J. n°

(2) O.J. n° L 378, 30.12.1978, p 1.

Whereas the Fisheries Commission instituted under the NAFO Convention adopted a proposal on 7 June 1979 amending the aforesaid joint enforcement scheme, and whereas in pursuance of Article XI of the Convention, this proposal will become binding upon the contracting parties with effect from 15 August 1979;

Whereas it is incumbent upon the Community to publish this joint enforcement scheme;

Whereas it is necessary to adopt rules of procedure for the purpose of appointing the authority referred to in paragraph 1 of the joint enforcement scheme,

HAS ADOPTED THIS REGULATION :

Article 1

The mutual inspection provided for by the NAFO Convention in respect of the vessels of the contracting parties fishing in the regulatory area defined in that Convention shall be governed by the programme set out in the Annex

Article 2

The Commission shall appoint the authority which, in the case referred to in paragraph 1 of the programme set out in the Annex, must be situated in the regulatory area or in a country situated close to that area.

Article 3

Vessels fishing in the regulatory area must keep on board a register, made out in the form prescribed by the laws of the Member States, and must produce this to any authorized inspector carrying out an inspection in accordance with the programme annexed hereto.

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Article 4

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

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

Done at

For the Council  
The President,

SCHEME OF JOINT INTERNATIONAL ENFORCEMENT

1. Control shall be carried out by inspectors of the fishery control services of Contracting Parties. The names of the inspectors appointed for that purpose by the appropriate authority of the respective Parties shall be notified to the Fisheries Commission, hereinafter referred to as the Commission. Appropriate authorities of Contracting Parties shall also notify the Commission of the names of the authorities designated to receive immediate notice of infringements and the means by which they may receive and respond to radio communications. Each Contracting Party which has, at any time, more than 15 vessels under its fisheries jurisdiction, or under charter or contract to persons under its jurisdiction, engaged in fishing for sea fish or in the treatment of sea fish in the Regulatory Area shall, during that time, have an inspector or other designated authority present in the Regulatory Area, or other designated authority present in a country of a Contracting Party adjacent to the Convention Area, to receive and respond, without delay, to notice of apparent infringements.
2. Vessels and helicopters carrying inspectors shall display a special flag or pennant approved by the Commission to indicate that the inspector is carrying out international inspection duties. The names of the vessels which may be either special inspection vessels or fishing vessels and the identity of the helicopters so used for the time being, shall be notified to the Commission.
3. Each inspector shall carry a document of identity supplied by the appropriate authorities of the Contracting Party in a form approved by the Commission and given him on appointment stating that he has the authority to act under the Scheme approved by the Commission. The document shall be produced by the inspector upon boarding a vessel under this Scheme.
4. (i) Inspection and control under this Scheme shall apply to the following types of vessels in relation to the following operations only when they are carried out in that part of the Regulatory Area to which this Scheme applies :
  - (a) fishing vessels which are or have been engaged during their present voyage in fishing operations;
  - (b) vessels equipped for processing fish on board which are or have been engaged during their present voyage in fish transferring operations; and
  - (c) transport vessels which are actually engaged in fish transferring operations.(ii) The master of a vessel to which inspection and control apply shall facilitate boarding when given the appropriate signal in the International Code of Signals by a vessel or a helicopter carrying an inspector. The vessel to be boarded shall not be required to stop or manoeuvre when fishing, shooting, or hauling. The master shall nonetheless provide :

- (a) a boarding ladder constructed and used as described in Annex C to this Scheme; or
- (b) such assistance to boardings from helicopters as specified in Annex A to this Scheme.

In either case, the master shall observe the ordinary practice of good seamanship to enable an inspection party to board as soon as practicable. With respect to personnel helicopter hoist transfers, in certain circumstances such as those cited in paragraph 7 of Annex A, a boarding, using the helicopter hoist transfer procedure, will not be attempted.

- (iii) The procedures established for personnel helicopter hoist transfers are not intended to place a higher duty of care upon the master of a fishing vessel than would otherwise be the case under International Law.
- (iv) An inspection party will consist of one inspector in charge of making the inspection, who may be accompanied by additional inspectors appointed under this Scheme and not more than two witnesses. The word "inspector" hereafter refers only to the inspector in charge unless it is clear that all inspectors appointed under this Scheme and included in the inspection party are referred to.
- (v) The master shall enable the inspector to examine and photograph catch, nets, or other gear and any relevant documents as the inspector deems necessary to verify the observance of the Commission's regulations in force in relation to the vessel concerned.
- (vi) The vessel in charge of a pair trawling operation shall be required to identify itself by flying a pennant or flag on the approach of an inspector.
- (vii) Contracting Parties shall be required to inform the Executive Secretary when an inspection vessel of that Contracting Party (1) is in the Regulatory Area.

5. (i) Inspections shall be made so that the vessel suffers the minimum interference and inconvenience. The inspector shall limit his inquiries to the ascertainment of the facts in relation to the observance of the Commission's regulations in force in relation to the vessel concerned. In making his examination, the inspector may ask the master for any assistance he may require. He shall draw up a report of the inspection on a form approved by the Commission. The inspector shall sign the report in the presence of the master who shall be entitled to add or have added to the report any observations which he may think suitable. The master must sign such observations, and he must sign the report without prejudice to future proceedings.

A copy of the report shall be given to the master of the vessel and the original shall be transmitted, within 30 days whenever possible, to an appropriate authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel. A copy shall be forwarded to the Commission.

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(1) In the case of the European Economic Community the term "inspection vessel of that Contracting Party" shall mean an inspection vessel of one of the Member States of the European Economic Community.

(ii) Inspectors shall have authority to inspect all fishing gear on or near the working deck and readily available for use, and the catch on and below decks. Fishing gear shall be inspected in accordance with the regulations in force for the Subarea in which the inspection takes place. The number of undersized meshes and the width of each mesh in the nets examined shall be entered in the inspector's report together with the average width of the meshes examined.

(iii) The inspector shall have authority, subject to any limitations by the Commission, to carry out such examination and measurement of the catch as he deems necessary to establish whether the Commission's regulations are being complied with.

(iv) Where an apparent infringement of the regulations is observed, the inspector shall examine the bridge log, fishing log, or other pertinent documents which contain information relevant to the apparent infringement. The inspector shall enter a notation in the fishing logbook or other relevant document stating the date, location, and type of apparent infringement observed and shall sign such notations. The inspector may make a true copy of any relevant entry in such a document, and shall require the master of the vessel to certify in writing on each page of the copy that it is a true copy of such entry. The inspector shall have full opportunity to document evidence of the apparent infringement with photographs of the relevant fishing vessel, gear, catch, and logs or other documents, in which case copies of the photographs shall be attached to the copy of the report to the Contracting Party.

(v) Where an inspecting officer observes an apparent infringement of the regulations prohibiting :

(a) fishing in a closed area or with gear prohibited in a specific area;

(b) fishing for stocks or species in a region after the date on which the Contracting Party exercising fisheries jurisdiction over the inspected vessel has notified the Executive Secretary that vessels under its fisheries jurisdiction will cease a directed fishing for those stocks or species;

(c) fishing in an "Others" quota without prior notification to the NAFO Secretariat, or more than 10 days after the "Others" quota for that stock or species has been taken and Contracting Parties have been so informed by the Executive Secretariat; and

(d) fishing without proper flag State registration documents for the area where the vessel is found fishing; the inspector shall, with a view toward facilitating Contracting Party action on the apparent infringement, immediately attempt to communicate with an inspector of the inspected vessel's flag state known to be in the vicinity, or the authority designated in accordance with paragraph 1 above by the Contracting Party exercising fisheries jurisdiction over the inspected vessel. The master of the inspected vessel shall arrange for messages to be sent and received by using his radio equipment and operator for this purpose. At the request of the inspector, a master shall cease all fishing which appears to the inspector to be in contravention of regulations cited above.

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During this time, the inspector shall complete the inspection and, if he is unable to communicate with an inspector or designated authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel within a reasonable period of time, he shall leave the inspected vessel and communicate as soon as possible with an inspector or designated authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel. However, if he succeeds in establishing communications while on board the inspected vessel, and provided that the inspector or designated authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel agrees, the inspector may remain aboard. So long as the inspector remains aboard, the master may not resume fishing until the inspector is reasonably satisfied either with the action taken by the vessel's master, or as a result of his communication with an inspector or designated authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel, that the vessel will not repeat the apparent infringement for which it has been cited.

- (vi) The inspector may request that the master remove any part of the fishing gear which appears to the inspector to have been used in contravention of the Commission's regulations in force in relation to the vessel concerned. An identification mark approved by the Commission shall be affixed to any part of the fishing gear which appears to the inspector to have been so used, whether removed or not, and the inspector shall record these facts on his report. The mark shall be so affixed as to ensure that this part of the gear will be preserved with the mark attached, and it shall be so preserved until it has been viewed by an inspector or designated authority of the Contracting Party exercising fisheries jurisdiction over the inspected vessel who shall determine the subsequent disposition of the gear.
- (vii) The inspector may photograph the fishing gear in such a way that the identification mark and measurements of the fishing gear are visible, in which case the subjects photographed should be listed in the report and copies of the photographs should be attached to the copy of the report to the Contracting Party exercising fisheries jurisdiction over the inspected vessel.

- 6. Appropriate authorities of a Contracting Party notified of an apparent infringement committed by a vessel over which it exercises fisheries jurisdiction shall take prompt action to receive and consider the evidence of the alleged infringement, conduct any further investigation necessary for disposition of the alleged infringement, and whenever possible, board the vessel involved. Appropriate authorities of the Contracting Party exercising fisheries jurisdiction over the vessels concerned shall cooperate fully with appropriate authorities of the Contracting Party having designated the inspector to ensure that the evidence of the alleged infringements is prepared and preserved in a form which will facilitate judicial action on it.

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7. An inspector observing a failure of a vessel to enable an inspection party to board after being properly signalled shall :
  - (i) report the apparent infringement as soon as possible to any inspector of the flag state known to be in the vicinity or a designated authority of the Contracting Party exercising fisheries jurisdiction over the vessel concerned;
  - (ii) prepare a report giving as much information as possible, including the distance from which the signal was given, the visibility at the time, sea state, wind and icing conditions.
8. Resistance to an inspector or failure to comply with his directions shall be treated by the flag state of the vessel as if the inspector were an inspector of that state.
9. Inspectors shall carry out their duties in accordance with the rules set out in this Scheme, but they shall remain under the operational control of their national authorities and shall be responsible to them.
10. Appropriate authorities of Contracting Parties shall consider and act on reports of inspectors of other Contracting Parties under this Scheme on the same basis as reports of their own inspectors. The provisions of this paragraph shall not impose any obligation on the appropriate authorities of a Contracting Party to give the report of a foreign inspector a higher evidential value than it would possess in the inspector's own country. Appropriate authorities of Contracting Parties shall collaborate in order to facilitate judicial or other proceedings arising from a report of an inspector under this Scheme.
11.
  - (i) Appropriate authorities of the Contracting Parties shall inform the Commission by 1 March each year of the provisional plans for participation in these arrangements in that and the following year and the Commission may make suggestions to the appropriate authorities of the Contracting Parties for the coordination of their operations in this field including the number of inspectors and the number of ships carrying inspectors.
  - (ii) The arrangements set out in this scheme and the plans for participation shall apply between Contracting Parties unless otherwise agreed between them; and such agreements shall be notified to the Commission;

Provided, however, that implementation of the Scheme shall be suspended between any two Contracting Parties for no more than one year, if either of them has notified the Commission to that effect, pending completion of an agreement.

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12. Appropriate authorities of each Contracting Party shall report to the Commission by 1 March each year for the previous year :

- (i) Compilation of the inspections of the vessels over which they exercise fisheries jurisdiction by any authorized NAFO inspectors. This report shall refer specifically to each inspection by vessel name, date, position, and the nature of any alleged infringement.
- (ii) The status of disposition of each alleged infringement by a vessel over which they exercise fisheries jurisdiction. Each alleged infringement shall be listed annually until the action taken is final under the laws of the flag state. Any punishment imposed shall be described in specific terms, including the amount of any monetary penalty actually paid and the length of any imprisonment actually served.

Annex A - Integral part of the NAFO Scheme of Joint International Enforcement to permit inspections by helicopter hoist procedure in the Regulatory Area

Instructions to masters for transfer of a NAFO inspection party by helicopter to and from fishing vessels

The Contracting Parties shall take appropriate action to ensure that all masters of fishing vessels under their fisheries jurisdiction engaged in fishing for sea fish or in the treatment of sea fish in the Regulatory Area are made aware of and comply with the following instructions with regard to the transfer of NAFO inspection parties by helicopter to and from fishing vessels:

1. Inspection parties authorized under the NAFO Scheme of Joint Enforcement procedures may board a vessel not only by sea boat, but also by helicopter. In some ice conditions this may be the only practical way of boarding a vessel. Masters shall be aware of this method of transferring inspectors, and shall be conversant with the information contained in these instructions.
2. The captain of the helicopter shall be in charge of and shall ensure for the safety of personnel who are being transferred between a vessel and the helicopter during the entire time such personnel are attached to the helicopter via the hoist cable and the lifting device.
3. The master of the vessel shall follow the procedures described below to assist the helicopter:
  - (i) Attempt to communicate by radio in some common language;
  - (ii) Alter course and speed if requested and if free to do so;
  - (iii) Maintain a steady course and speed throughout the transfer operation unless the safety of the vessel is in jeopardy;
  - (iv) Provide a visual indication of relative wind by means of a pennant or other suitable device;
  - (v) Clear the transfer area of objects which could be blown loose;
  - (vi) Radio transmission shall not be made on standing wire antennae (high frequency) in the immediate vicinity of the transfer area during the transfer. If such transmissions become necessary, the helicopter shall be advised so that the transfer can be delayed;
  - (vii) A guide line may on occasions be lowered first. Crew members should be available to man this line to assist in the transfer of the inspection party, but the inspection party, other lines and wires should not be touched by the crew of the vessel until the inspection party ground them on the vessel;
  - (viii) TAKE APPROPRIATE MEASURES TO ENSURE TO THE EXTENT PRACTICABLE THAT NONE OF THE LINES OR FITTINGS LOWERED FROM THE HELICOPTER ARE ATTACHED TO OR PERMITTED TO FOUL IN THE VESSEL.
4. The helicopter displaying its NAFO pennant shall communicate to the vessel, by one or more of the following means, his intention to conduct a boarding:
  - (i) Radio communications on 2182 KHZ, VHF-FM Channel 16 or other agreed to frequencies;
  - (ii) Visual or aural indication of an appropriate signal extracted from the International Code of Signals as included in Annex B of the NAFO International Inspection Scheme;
  - (iii) Hover over or near the intended boarding position in conjunction with hand signals indicated in paragraph 5.
5. The following visual hand signals, adopted from the International Code of Signals, may be used by the air crew or vessel crew to permit communication as appropriate to the stage of the boarding operation:
  - (i) Signal: Pointing movement by the arm or hand

<u>Used by:</u>	<u>Meanings:</u>
Helicopter	Wish to conduct transfer or boarding in the indicated location
  - (ii) Signal: Vertical motion with an arm or a flag, or a "Thumbs-Up" indication

<u>Used by:</u>	<u>Meanings:</u>
Either	Ready to conduct transfer; or
Vessel	Desire transfer from this position; or
Helicopter	Take up the slack on the guide line; or
Helicopter	Pull in gently on the guide line; or
Either	Any affirmative response.

(iii) Signal: Horizontal motion with arm or flag, or "Thumbs-Down" indication

Used by:

Meanings:

Vessel	Transfer not recommended from this position - recommend alternate (and point towards desired position); or
Either	Not ready to conduct transfer; or
Vessel	Request you stop the transfer; or
Helicopter	Ease the tension on the guide line; or
Helicopter	Release the guide line; or
Either	Any negative response.

6. A visual display of the symbol YU by the helicopter or the radio transmission of YANKEE UNIFORM to the fishing vessel indicates the signals in Annex B of the Scheme of Joint International Enforcement are to be used for inspection communications.
7. The following situations are representative of conditions under which a personnel helicopter hoist transfer will not be attempted:
- (i) In the opinion of the captain of the aircraft or the master of the vessel, there is inadequate clear space for a transfer or there are too many obstructions;
  - (ii) There is significant vessel motion such that, in the opinion of the captain of the aircraft or the master of the vessel, a hazard exists;
  - (iii) The helicopter cannot position itself with an acceptable relative wind;
  - (iv) Other hazards exist which prejudice the safety of the helicopter or the vessel or of personnel being transferred.

Annex B - Integral part of the NAFO Scheme of Joint International Enforcement to permit inspections by helicopter hoist procedure in the Regulatory Area

Standard examples with meanings from the International Code of Signals and remarks pertinent to helicopter transfers under the NAFO Scheme of Joint Enforcement

<u>IMCO Signal</u>	<u>IMCO Meaning</u>	<u>NAFO Remarks</u>
SQ 3	You should stop, or heave to, I am going to board you	The display of the NAFO pennant indicates the presence of an authorized NAFO inspection team in the helicopter
MG	You should steer course _____	Course is true
IK-RQ	Request you proceed at _____ KTS	
AZ	I cannot alight but I can lift crew	Indication of intentions to conduct helicopter hoist transfer (used with BB signal)
BB1-RQ	May I alight on your deck: are you ready to receive me forward )	Used in conjunction with signal AZ to indicate helicopter will not alight but will conduct a hoist transfer in the area indicated
BB2-RQ	May I alight on your deck: are you ready to receive me amidships )	
BB3-RQ	May I alight on your deck: are you ready to receive me aft )	
	)	
K	I wish to communicate with you by ..... (extracts from IMCO Table 1)	
	6... International Code Flags	
	8... Radiotelephony 2182 KHZ	
	9... VHF Radiotelephony Channel 16	
YX	I wish to communicate by radiotelephony on frequency indicated	
C	YES (affirmative)	
N	NO (negative)	November Oscar by voice or radio transmission
YU	I am going to communicate with your station by means of the International Code of Signals	
BT	Helicopter is coming to you now (or at time indicated)	

ANNEX C. Integral part of the Scheme of Joint International Enforcement to describe the boarding ladder and its use by vessels to which inspection and control apply

Boarding Ladders

Fishing vessels with an overall length greater than 30 m (100 feet) and support vessels subject to inspection under the Scheme of Joint International Enforcement shall comply with the following requirements.

- I. The boarding ladders shall be efficient for the purpose of enabling inspectors to embark and disembark at sea safely. The boarding ladders are to be kept clean and in good order.
- II. The ladder shall be secured in a position so that it is clear from any possible discharges from the ship, that each step rests firmly against the ship's side, that it is clear so far as practicable of the finer lines of the ship and that the inspector can gain safe and convenient access to the ship.
- III. The steps of the boarding ladder shall be :
  - (a) of hardwood or other material of equivalent properties, made in one piece free of knots, having an efficient non-slip surface; the four lowest steps may be made of rubber of sufficient strength and stiffness or of other suitable material of equivalent characteristics;
  - (b) not less than 480 mm (19 inches) long, 115 mm (4-1/2 inches) wide, and 25 mm (1 inch) in depth, excluding any non-slip device; and
  - (c) equally spaced not less than 300 mm (12 inches) nor more than 380 mm (15 inches) apart and may be secured in a manner that they will remain horizontal.
- IV. No boarding ladder shall have more than two replacement steps which are secured in position by a method different from that used in the original construction of the ladder and any steps so secured shall be replaced, as soon as reasonably practicable, by steps secured in position by the method used in the original construction of the ladder.
- V. The side ropes of the ladder shall consist of two uncovered manila or equivalent ropes not less than 60 mm (2-1/2 inches) in circumference on each side; each rope shall be continuous with no joints below the top step ; two man-ropes properly secured to the ship and not less than 65 mm (2-1/2 inches) in circumference and a safety line shall be kept at hand ready for use if required.
- VI. Battens made of hardwood, or other material of equivalent properties, in one piece and not less than 1.80 m (5 feet 10 inches) long, shall be provided at such intervals as will prevent the boarding ladder from twisting. The lowest batten shall be on the fifth step from the bottom of the ladder and the interval between any batten and the next shall not exceed 9 steps.

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- VII. Means shall be provided to ensure safe and convenient passage onto or into and off the ship between the head of the pilot ladder or of any accommodation ladder or other appliance provided. Where such passage is by means of a gateway in the rails or bulwark, adequate handholds shall be provided. Where such passage is by means of a bulwark ladder, such ladder shall be securely attached to the bulwark rail or platform and two handhold stanchions shall be fitted at the point of boarding or leaving the ship not less than 0.70 m (2 feet 3 inches) nor more than 0.80 m (2 feet 7 inches) apart. Each stanchion shall be rigidly secured to the ship's structure at or near its base and also at a higher point, shall be not less than 40 mm (1-1/2 inches) in diameter and shall extend not less than 1.20 m (3 feet 11 inches) above the top of the bulwark.
- VIII. Lighting shall be provided at night such that both the boarding ladder overside and also the position where the inspector boards the ship shall be adequately lit. A lifebuoy equipped with a self-igniting light shall be kept at hand ready for use. A heaving line shall be kept at hand ready for use if required.
- IX. Means shall be provided to enable the boarding ladder to be used on either side of the ship.
- X. The rigging of the ladder and the embarkation and disembarkation of an inspector shall be supervised by a responsible officer of the ship.
- XI. Where on any ship constructional features such as rubbing bands would prevent the implementation of any of these provisions, special arrangements shall be made to the satisfaction of the Commission to ensure that persons are able to embark and disembark safely.
- (5)

