

Northwest Atlantic



Fisheries Organization

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Canadian Proposal Concerning Joint International  
Enforcement in the Regulatory Area

by

the Canadian Delegation

1. At the 1986 Annual Meeting of NAFO one Contracting Party requested that the Organization develop a new Enforcement Scheme. It was agreed to set up a Working Group to review any proposed amendments to the Scheme. The Working Group met in early March 1987 to consider proposed amendments provided by the EEC.
2. The present Scheme is basically a carry-over from ICNAF with minor modifications. The Scheme, NAFO/FC Doc. 82/IX/13 has been in effect since August 14, 1979 with the last minor amendment taking effect on February 5, 1985.
3. One of the aims of an enforcement program is to bring about compliance with the regulations in force. This is the same premise that underlies the need for enforcement agencies throughout the world. The difference between such agencies and the NAFO Scheme of Joint International Enforcement is that under the Scheme inspectors only gather facts and evidence of alleged infractions. It is then up to the particular Contracting Party to investigate the alleged infractions, based on these facts, and impose any sanctions deemed necessary on its own vessels. However, a proper investigation cannot be conducted unless the appropriate authorities have sufficient facts, gathered at the time of the alleged infraction, on which to base their determination. It is therefore imperative that inspectors operating under the Scheme be in a position to carry out a full and proper inspection in order to determine if in fact an apparent infraction has occurred.
4. As all Contracting Parties know, in managing their own fisheries, there are four major areas of concern to monitor in an effort to carry out effective fisheries management:
  - a) Quotas - whether they have been exceeded.
  - b) Fishing gear - whether prohibited usage is occurring.
  - c) Misreporting (by area or species).
  - d) Unreported dumping or excessive discards.

An effective enforcement program must be able to monitor all four of these key areas.

5. Canada, as the major coastal state adjacent to the NAFO Convention Area, has undertaken the major responsibility for implementation of the NAFO Scheme of Joint International Enforcement. Canada and the USSR are the only two Contracting Parties that consistently carry out enforcement within the Regulatory Area and Canada is the only country to carry out air surveillance of the area (266 air hours in 1986). The cost of this enforcement-related activity to Canada is about \$19 million annually.
6. Based on the above, and after a thorough review of the Final Report of the Working Group on Joint International Enforcement in the Regulatory Area (NAFO/FC Doc. 87/1) Canada wishes to provide the following comments and proposals on this document.

I. Issue of "Dedicated Resources"

- a) Agreement could not be reached by the Working Group on the Community's proposed Sections 1(ii) and 1(v) - aimed at requiring the dedication of resources solely to the Regulatory Area. No member of the Working Group fully supported the Community's proposals for these sections, Canada cannot agree to these two sections because with the limited resources available to Canada with which to patrol its own jurisdiction as well as the NAFO Regulatory Area, it is not possible for Canada to dedicate resources solely to this area at the expense of patrolling within Canadian jurisdiction. Accordingly, adoption of these sections would terminate Canadian participation in the NAFO Scheme of Joint International Enforcement.

- b) The motivation of the EEC in proposing these sections appears to arise from allegations by Spain regarding enforcement of Canadian law with respect to occurrences within Canadian waters. These allegations are unfounded. Canada notes that the Working Group's proposals for amendment to other areas of the Scheme are aimed at clarifying procedures to avoid further allegations. Specifically, the details in section 4 regarding pennants and flashing lights, etc. should be more than enough notice for any fishing vessel to realize that an inspection under NAFO is being carried out. Furthermore, it is incumbent on NAFO inspectors to ensure that masters of fishing vessels are aware at all times under what authority boardings at sea are taking place.
- c) Canada cannot agree to the inclusion in any new Scheme of provisions which would make it impossible for Canada to participate.

## II. Issue of "Equitable Distribution of Inspections"

- a) Another area debated by the Working Group concerned the Community's proposal for equitable distribution of inspections between Contracting Parties. The original EEC proposal was that inspections should be carried out on the vessels of a Contracting Party to reflect the ratio of that Party's vessels to the total number of vessels of all Contracting Parties notified as intending to fish or process fish in the Regulatory Area. This was subsequently generally accepted as impractical by the Working Group and alternative wording was agreed.
- b) Section 2(i) is based on the principle that a Contracting Party should aim at ensuring that its inspections are carried out equitably among other Contracting Parties. Canada agrees that such a concept should be an overall aim but cannot agree to the following Section 2(ii) which attempts to define how this equitability could be determined.
- c) Once again the Scheme could be compared to an enforcement agency whereby should enforcement authorities be apprised of a particular problem area they would generally put more emphasis into that area. The same should be true of inspections carried out under this Scheme. If a potential problem is detected, whether it relates to gear problems, quota problems or misreporting, and especially if it appears to be occurring on a number of vessels of a particular fleet or on a number of vessels in a particular fishery, then it would seem to be incumbent on the inspectors to gather as much information as possible on this problem to assist the Contracting Parties concerned to investigate any alleged infractions. For the inspectors to forego inspections in this instance because a certain percentage of inspections has been fulfilled would not make sense.
- d) Therefore, while Canada agrees with the general concept of equitability, it believes that attempts to define the concept of equitability in this context are not reasonable. Therefore, Canada proposes that Section 2(ii) be deleted.

## III. Issue of "Recording of Catches"

- a) One of the major prerequisites for managing a fishery on a rational basis is to have accurate catch data so that proper scientific assessments can be carried out on the health of the stocks. One of the major problems facing fishery managers in determining the level of removals from a particular fishery is that of misreporting, either of species/quantities caught, including those later dumped or discarded, or fishing area.
- b) As the majority of fleets operating within the Regulatory Area are distant water fleets it is not easy for their home authorities to know how accurately the vessels are reporting. Furthermore, as many of these fishing vessels may be away from their home ports for months at a time it becomes impossible for home authorities to verify log records with what has actually transpired. At the present time, Canadian inspectors operating within the NAFO Regulatory Area gather substantial information regarding catches and areas fished. This information, from each inspection, is entered on the current Inspection Form, a copy of which is sent to both the NAFO Secretariat as well as the particular Contracting Party. Such information can be very useful to flag state authorities in determining what is transpiring in their vessels fisheries and, in particular, whether a quota is being caught or exceeded.
- c) Section 6(ii) of the proposed amended Scheme notes that the Working Group could not reach an agreement on whether catch data recorded in a logbook should only be inspected on a voyage basis or for the whole quota period. Canada is of the view that the inspection should cover the entire quota period to date, or back as far as the last inspection during that quota period, not just for the particular voyage.
- d) Canada's reasons for this are quite straight-forward. First, it is quite possible for one fishing vessel to completely catch an entire quota, particularly in some of the smaller "Others" quotas. This could be accomplished in only one "voyage" or in more than one. Second, the term "voyage" is far too loose a term. What is a voyage to one vessel may be completely different to another. For a fishing vessel that does not return home for many months, it is not clear what constitutes a "current voyage".

- e) Canada cannot agree with the inclusion in a revised Scheme of any provision that limits the inspectors ability to gather as much information regarding a vessel's activities in a current quota period.

IV. Issue of "Tolerances"

Furthermore, this same section notes a second area of disagreement regarding the tolerances to be permitted in the accuracy of logbook entries. The tolerance of 20% proposal by the EEC is far too great. That would mean that a fishing vessel could be under-reporting its catch by 20%. If this were to be expanded to include all fleets in the Regulatory Area, then theoretically all NAFO TAC's could be overfished by 20%. While that may be an extreme extrapolation, it is nevertheless possible under such a proviso. Canada would prefer to see no mention of tolerances applied to the accuracy of logbook entries. While it is recognized that logbook entries are not necessarily exact, they should reflect the actual catches with a high degree of accuracy. If an inspector has reason to believe that the figures in the logbook are not accurate, within a reasonable level, he would normally record all pertinent information as an alleged infraction and allow the flag state to make its own determination of what is or is not an acceptable level of accuracy for its own vessels.

V. Issue concerning "Format of Inspection Report"

Canada believes that Section 15 of the proposed amended Inspection Report should remain as it is in the present Scheme, i.e. Section 14 of the existing form. This present form provides for space to record catches whether or not an alleged infraction has taken place.