

International Commission for



the Northwest Atlantic Fisheries

Serial No. 3735  
(B.u.76)

ICNAF Comm.Doc. 76/I/2  
(Revised)

EIGHTH SPECIAL COMMISSION MEETING - JANUARY 1976

Note by US Commissioners on strengthening and improving the Scheme of Joint International Enforcement of the ICNAF fisheries protocols within the Convention Area and Statistical Areas 0 and 6

The United States at the Seventh Special Meeting of ICNAF at Montreal, Canada (September 1975) expressed the need for further improvement of the existing Scheme of Joint Enforcement. This improvement is necessitated by continuing violations of the Commission's regulations by the fleets of Contracting Parties as specified in Commissioners Document 75/IX/50 (Serial No. 3710). For several years the United States has encouraged wider participation in the Scheme of Joint Enforcement. Inspectors names are provided to Member Governments, but in fact, there is no evidence that actual participation in the form of full-scale at-sea inspection has increased. Violations remain undetected by countries that send their vessels to fish in the Convention Area. It appears clear to US officials that most Member Nations have no effective direct control over their vessels from the time they leave port until the time they return. The result of this negligence has been an epidemic of infringements. When there is no meaningful flag state enforcement of regulations, fishermen violate Commission regulations. The result has been a series of closed area violations, over-fishing, inadequate logging of catches, and other less infringements. Undoubtedly, countless other infractions remain undetected by coastal states' inspectors who have carried the Scheme of Joint Enforcement forward almost alone through most of the years since its implementation.

Over the past four years data on incidents reported to US officials show that on numerous occasions Member Nations have allowed their fleets to continue fishing far beyond the data when their allotted quota for a species had been caught. The US has attempted to monitor the catches of a dozen or more Member Nations. We find it inconceivable, yet apparently true, that some Member Nations, which license and register their own vessels, appear to know less of their vessels true catches than do officials of the USA.

US inspectors likewise have encountered many cases of widespread violations of the ICNAF Scheme of Joint Enforcement within a national fleet. In some instances, the same vessel has been cited in successive weeks for the same violation. The overwhelming impression arises that many individual captains and in some cases entire fleets are being poorly advised of their responsibilities to ICNAF, or if correctly advised they are not being managed properly to assure proper adherence. Individual fishing captains, because they are not threatened with immediate prosecution and loss of right to fish, take risks and violate, knowing that eventual punishment, if any, will be offset by the full cargo of fish brought home. This lax attitude on the part of the captains, and their apparent scoffing at regulations, exist because Member Nations have not participated sincerely and fully in the Scheme of Joint Enforcement.

Clearly, if the Commission is going to attain its objectives, the present situation must not be allowed to continue. Accordingly, the USA offers the following proposals for consideration and action, through STACTIC, at the Eighth Special Meeting of the Commission:

Detention of vessels and withdrawal of registration for certain infringements

In the event that serious infringements are discovered by an inspector, it would facilitate the flag state's process for disposition of offences if an inspector of the flag state had an opportunity to view the evidence of the infringement promptly and review the facts discovered with the inspector as soon as possible. And, in the case of these serious violations, the offending vessel should not be permitted to continue fishing until the infringement has been resolved. Provisions for short-term detention of vessels pending the arrival of the flag state inspector and for withdrawal of registrations by the flag state inspector appear necessary to accomplish this. The US Commissioners therefore make the following proposal: proposal for amendment to the Joint Scheme of International Enforcement. The US Commissioners propose that the Joint Scheme of International Enforcement be amended by inserting the following new paragraphs:

"Notwithstanding any other provision of this Scheme, when an apparent infringement of the regulations pertaining to:

- A. Fishing in a closed area or with gear prohibited in a specific area;

- B. Fishing in an "Others" quota without prior notification to the ICNAF Secretariat, or after the allowable catch for that stock or species has been taken;
- C. Fishing for stocks or species in an area after the Contracting Government having jurisdiction over the inspected vessel has notified the Executive Secretary that its allowable catch for those stocks or species has been taken;
- D. Falsification of fishing logbook records;
- E. Failure to possess proper flag state registration documents for the area where the vessel is found fishing;

the inspector shall, with a view toward facilitating flag state action on the apparent infringement, immediately attempt to communicate with any inspector of the inspected vessel's flag state known to be in the vicinity, or the authority of the inspected vessel's flag state designated in accordance with paragraph 1 above. 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. The inspector may, at his option, remain aboard the inspected vessel to preserve the evidence of the apparent infringement until he has communicated as required above the facts of the infringement to an inspector or designated authority of the flag state. If a flag state inspector agrees to proceed to the inspected vessel, and will arrive in less than 48 hours, the inspector, at his option, may remain on board the inspected vessel to preserve the evidence of the apparent infringement until the flag state inspector arrives. While the inspector remains on board, the inspected vessel may not continue to fish. The inspected vessel may not continue to fish until communications have been established as required above; thereafter the inspected vessel may continue to fish while the inspector remains on board awaiting the arrival of the flag state inspector, but only in such manner as the inspector and the master of the vessel agree would not be in violation of the regulations in effect with regard to that vessel."

#### Withdrawal of ICNAF registration

"When one of the infringements listed in paragraph (a) through (e) above is verified and concurred by an inspector of the flag state of the inspected vessel, that inspector may, if permitted by national legislation, temporarily withdraw the vessel's authorization to fish in the Convention Area until the disposition of the infringement by the flag state."

#### Over-quota adjustment

Since quota allocations are made to Contracting Governments instead of individual vessels, the vessels generally cannot be found in violation of quota regulations. Since quota violations have continued and, in some cases, been of very great magnitude, some means must be established for greater adherence to the allocations to prevent continued violations and consequent depletion of critical species. The US Commissioners therefore make the following proposal:

Proposal for amendment to the "Management of International Quota Regulations, adopted by the International Commission for the Northwest Atlantic Fisheries in Plenary Session on 14 June 1974" (Annual Report 1974, Proceedings No. 20, Appendix III, page 241, Serial No. 3403 (A.a.4)).

The United States Commissioners propose that the regulations governing the management of international quota regulations, which was originally adopted by the Commission on 14 June 1974, be amended by inserting the following new paragraph, entitled "Over-quota penalties" at the end of the present regulation:

"7. That notwithstanding the above, when the Commission finds that nationals or vessels of, or under contract or charter to, a Contracting Government other than the coastal states, have taken more than their allowed catch quota in any category of catch quotas for any quota period, the Commission will adjust the corresponding catch quota for that Contracting Government by reducing the quota for the quota period following the Commission's finding by an amount equal to 250 percent of the amount in excess. The quota adjustment shall be subtracted from the relevant quota following the determination of quotas provided for in paragraphs 2 and 3 above and shall not result in any increase in other quotas for the Government to which the quota adjustment applies, nor shall it result in any increase in that quota or other quotas for any other Government unless the Commission determines that the increase will not cause further harm to the stock or perpetuate the harm caused by the fishing above the quota limit."

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Corrigendum I

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Pages 1 and 2 - Sections entitled "Detention of vessels and withdrawal of registration for certain infringements" and "Withdrawal of ICNAF registration": please replace with the following:

Detention of vessels and withdrawal of registration for certain infringements

In the event that serious infringements are discovered by an inspector, it would facilitate the flag state's process for disposition of offences if an inspector of the flag state had an opportunity to view the evidence of the infringement promptly and review the facts discovered with the inspector as soon as possible. And, in the case of these serious violations, the offending vessel should not be permitted to continue fishing until the infringement has been resolved. Provisions for short-term detention of vessels pending the arrival of the flag state inspector and for withdrawal of registrations by the flag state inspector appear necessary to accomplish this. The US Commissioners therefore make the following proposal: proposal for amendment to the Joint Scheme of International Enforcement. The US Commissioners propose that the Joint Scheme of International Enforcement be amended by inserting the following new paragraphs and renumbering as necessary:

- "5. (v) Notwithstanding any other provision of this Scheme, when an apparent infringement of the regulations pertaining to:
- A. Fishing in a closed area or with gear prohibited in a specific area;
  - B. Fishing in an "Others" quota with prior notification to the ICNAF Secretariat, or after the allowable catch for that stock or species has been taken;
  - C. Fishing for stocks or species in an area after the Contracting Government having jurisdiction over the inspected vessel has notified the Executive Secretary that its allowable catch for those stocks or species has been taken;
  - D. Falsification of fishing logbook records;
  - E. Failure to possess proper flag state registration documents for the area where the vessel is found fishing;

the inspector shall, with a view toward facilitating flag state action on the apparent infringement, immediately attempt to communicate with any inspector of the inspected vessel's flag state known to be in the vicinity, or the authority of the inspected vessel's flag state designated in accordance with paragraph 1 above. 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. The inspected vessel may not continue to fish until the communications provided above have been established. If the inspector is able to establish communications and a flag state inspector or designated authority agrees to proceed to the inspected vessel so as to arrive in less than 48 hours, the inspector may remain aboard the inspected vessel to facilitate the preservation of the evidence until the flag state inspector or designated authority arrives. In this instance, the inspected vessel may resume fishing after the communications have been established. If the inspector is unable to establish the communications provided above within a reasonable period of time, he shall complete the inspection, leave the inspected vessel and communicate as soon as possible with an inspector or designated authority of the flag state.

- (vi) Violations other than those listed in subparagraph (v) above, shall be reported to the flag state of the inspected vessel as soon as possible.

- (vii) para. (vi) renumbered.
- (viii) para. (vii) renumbered.

Withdrawal of ICNAF registration

- (ix) When one of the infringements listed in paragraph (A) through (E) above is verified and concurred by an inspector of the flag state of the inspected vessel, that inspector may, if permitted by national legislation, temporarily withdraw the vessel's authorization to fish in the Convention Area until the disposition of the infringement by the flag state."



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Corrigendum II

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Note by US Commissioners on strengthening and improving the Scheme of Joint International Enforcement of the ICNAF Fisheries protocols within the Convention Area and Statistical Areas 0 and 6

Page 3 - Section entitled "Over-quota adjustment"

Please replace the above section with the following :

Since quota allocations are made to Contracting Governments instead of individual vessels, the vessels generally cannot be found in violation of quota regulations. Since quota violations have continued and, in some cases, been of very great magnitude, some means must be established for greater adherence to the allocations to prevent continued violations and consequent depletion of critical species. The US Commissioners therefore make the following proposal:

Proposal for amendment to the "Management of International Quota Regulations, adopted by the International Commission for the Northwest Atlantic Fisheries in Plenary Session on 14 June 1974" (Annual Report 1974, Proceedings No. 20, Appendix III , page 241, Serial No. 3403 (A.a.4)).

The United States Commissioners propose that the regulations governing the management of international quota regulations, which was originally adopted by the Commission on 14 June 1974, be amended by inserting the following new paragraph, entitled "Over-quota adjustment" at the end of the present regulation :

- "7. That notwithstanding the above, when the Commission finds that nationals or vessels of, or under contract or charter to, a Contracting Government have taken more than their allowed catch quota in any category of catch quotas for any quota period, the Commission may reduce the corresponding catch quota for that Contracting Government in a succeeding quota period. In the event that an 'others' allocation is exceeded, the Commission may make a similar reduction in the allocation to 'others', noting, if possible, in making such a reduction which of the Contracting Governments fishing on that allocation was responsible for the excessive catch, and reducing the amount of the 'others' allocation that the vessels of that Contracting Government will be authorized to take accordingly. The quota adjustment shall be subtracted from the relevant quota following the determination of quotas provided for in paragraphs 2 and 3 above and shall not result in any increase in other quotas for the Government to which the quota adjustment applies, nor shall it result in any increase in that quota or other quotas for any other Government unless the Commission determines that the increase will not cause further harm to the stock or perpetuate the harm caused by the fishing above the quota limit."

