

## International Commission for



## the Northwest Atlantic Fisheries

Serial No. 4015  
(B.g.45)

ICNAF Comm.Doc. 76/XII/64

NINTH SPECIAL COMMISSION MEETING - DECEMBER 1976

Report of the Group of Experts on the Future of ICNAF

Ottawa, 5-7 October 1976

The Group of Experts (Appendix I), made up of designees from Canada, Cuba, Denmark, Portugal, USSR, and USA, met in Ottawa, Canada from 5 to 7 October 1976 under the chairmanship of Dr A.W.H. Needler. In accordance with its terms of reference from the June 1976 Commission Meeting (Appendix II) and in the light of extension of national fisheries jurisdiction by Canada (1 January 1977) and USA (1 March 1977) to 200 miles, the Group proceeded to examine and formulate suggestions regarding future multilateral cooperation in the field of fisheries in the Northwest Atlantic Ocean and regarding the procedures and timing to be followed in pursuing the matter.

Discussion papers were provided by Capt J.C.E. Cardoso (Appendix III), Mr L.H. Legault (Appendix IV), and Mr E. Oltuski (Appendix V).

Functions to be Provided for

The Group generally agreed that the functions to be provided for by a multilateral convention include:

- (1) Management of the fisheries outside national fisheries jurisdiction. In the case of stocks occurring entirely outside national fisheries jurisdiction, the multilateral body to succeed ICNAF would have the sole responsibility for the recommendation of management measures to Governments. In the case of stocks occurring both inside and outside, it is necessary to coordinate measures to be taken outside national fisheries jurisdiction as noted above with measures taken inside national fisheries jurisdiction by the coastal state(s) concerned.
- (2) Provision of scientific advice to the multilateral body on the scientific basis for management of the fisheries outside national jurisdiction, and provision to coastal states, at their request, of advice on the scientific basis for management of fisheries inside national fisheries jurisdiction.

Institutional Arrangements

The Group generally agreed that these functions should be provided for in a single convention.

One view expressed was that relatively few changes to the present Convention would be needed in order to take into account the new jurisdictional situation. The main changes required according to this view are reflected in Appendix III. Another view was that more substantial changes would be needed, as reflected in Appendix IV.

There were differences of opinion between those experts who advocated the establishment of two separate bodies (Mr Legault and Dr Storer) and those who advocated a single commission structure similar to the present ICNAF (Mr Oltuski, Mr L kkegaard, Capt Cardoso, and Mr Volkov). The former view is set forth in the attached statement by Mr Legault (Appendix IV), who argued that the separation of the management body (commission) from the scientific body (council) makes a clearer distinction between the management and advisory functions provided for under a single convention, while still providing for appropriate coordination of measures inside and outside national fisheries jurisdiction. Those advocating the continuation of a structure similar to the present Commission, with a subsidiary scientific body (STACRES) responsible to the Commission, argued that this would provide greater simplicity in that scientific and other advice would be requested and transmitted through the Commission and better facilitate appropriate coordination of management inside and outside national fisheries jurisdiction.

One view, held by those supporting the single body approach, was that the Convention Area would remain the same except for the addition of Statistical Areas 0 and 6, but that different functions would be exercised in different parts of the Area. Another view, expressed by those in favour of the two-body approach, was that the scientific advisory function would apply to the whole area but that the management function would apply only outside national fisheries jurisdiction and that even under the approach first mentioned changes might be desirable to the area covered by the present ICNAF Convention.

It was generally agreed that membership either in the two bodies or the single body would be open to all Governments whose nationals participated in the fisheries in the Convention Area.

It was also agreed that a single secretariat would suffice under either approach.

The attention of the Group was called to the statement made on behalf of the Member States of the European Communities to the 1976 Annual Commission Meeting (1976 Meeting Proceedings No. 3, page 23) and its possible implications for the new arrangements.

#### Suggested Procedural Arrangements

Alternative procedures for establishing future multilateral arrangements which should be considered by ICNAF at its Special Meeting in December 1976 include:

- (1) the negotiation of a new Convention by a meeting of Plenipotentiaries,
- (2) amendment of the present ICNAF Convention as provided for in Article XVII.

A view was expressed that the latter alternative offered less danger of prolonged delay. Another view was expressed that the former alternative offered greater flexibility. The Group suggested that, whichever was chosen, ICNAF at its December 1976 Meeting appoint a drafting committee to prepare a text or texts for consideration.

Canada has already made a proposal (Commissioners' Document 76/XII/61) which will be considered at the December 1976 Meeting, to the effect that the Commission recommend an amendment to the Convention to exclude waters under extended fisheries jurisdiction from the Convention Area. As an alternative interim measure, it was suggested by some members of the Group that Article VIII be amended to provide that:

"recommendations shall not be made for waters of the Convention Area within national fisheries jurisdiction without the affirmative vote of the coastal state exercising such jurisdiction."

WORKING GROUP OF EXPERTS ON THE FUTURE OF ICNAF  
Ottawa, 5-7 October 1976

List of Designated Participants

Canada: L.H. Legault assisted by A.W.H. Needler, M.B. Phillips, and M.P. Shepard

Cuba: E. Oltuski

Denmark: K. Løkkegaard assisted by E. Lemche

Portugal: J.C. Esteves Cardoso

USSR: A. Volkov

USA: J.A. Storer assisted by W.G. Gordon and L. Snead

ICNAF Secretariat: L.R. Day

WORKING GROUP OF EXPERTS ON THE FUTURE OF ICNAF  
Ottawa, 5-7 October 1976

Terms of Reference

The Working Group recommends to the Commission:

- (1) That experts be designated from Canada, Cuba, Denmark, Portugal, USSR, and USA to discuss the future of ICNAF and related matters in the light of recent and impending developments. In particular, the Group of Experts should:
  - (a) examine and seek to formulate suggestions regarding the future of multilateral cooperation in the field of fisheries in the Northwest Atlantic Ocean;
  - (b) examine and seek to formulate suggestions regarding the procedure and timing to be followed in pursuing the matter considered in (a) above;
- (2) That the designated experts, together with such assistants as are necessary, act in a personal capacity at meetings of the Group and that its discussions and any suggestions formulated by it be without prejudice to the position of any ICNAF Member Governments;
- (3) That the Executive Secretary of ICNAF be invited to attend meetings of the Group in a consultative capacity;
- (4) That suggestions formulated and reports prepared by the Group be sent to the ICNAF Commissioners for the appropriate attention of their respective Governments;
- (5) That the Group of Experts hold its first substantive meeting in Ottawa, at the invitation of the Government of Canada, during the last half of September 1976. The convening of any subsequent meetings of the Group shall be decided upon at the September meeting.

(June 1976 Meeting Proceedings No. 3, Appendix III)

WORKING GROUP OF EXPERTS ON THE FUTURE OF ICNAF  
Ottawa, 5-7 October 1976

Discussion Paper for Working Group of Experts on the Future of ICNAF

- Submitted by J.C. Esteves Cardoso

1. General Principles

- 1.1 An international fisheries organization should continue to exist for the purpose of providing a forum for coordinating the request and receipt of advice from "STACRES" on the state of stocks throughout the Convention Area, for the discussion of such advice and for impartial international examination of the overall impact of management policies on the totality of stocks, for management of stocks outside of national fisheries jurisdiction and advising on the management of other stocks as requested or consented by the competent coastal states.
- 1.2 Each coastal state should exercise over the waters under its national fisheries jurisdiction the sovereign rights and duties as established in international law. For each stock of fish occurring solely within its national fisheries jurisdiction, it should be responsible for the management measures conducive to conservation of the stock at the optimum level.

2. Managerial Functions of the International Fisheries Organization

- 2.1 For each stock of fish shared between the national fisheries jurisdiction of more than one coastal state but not occurring outside their national fisheries jurisdiction, decisions should be taken either by the states concerned, acting in concert as appropriate, or, if those states so agree, between themselves, by the international fisheries organization. Except in the latter case, the role of the international fisheries organization in respect of waters under national fisheries jurisdiction shall be purely advisory.
- 2.2 Stocks occurring wholly outside waters under national fisheries jurisdiction should be regulated by the international fisheries organization according to the present recommendation and objection procedure.
- 2.3 The international fisheries organization should be able to decide on binding recommendations (subject to objection procedure) for stocks shared between waters under national fisheries jurisdiction and waters outside.

Without the affirmative vote of each coastal state(s) concerned, no such recommendation shall be made for waters under national fisheries jurisdiction. In such an event, the international fisheries organization should have the option of agreeing on recommendations relating only to that part of the stock outside national fisheries jurisdiction. If scientifically practicable in the case of such stocks, they could be managed as separate portions, the portion under national fisheries jurisdiction being the responsibility of the coastal state(s) and the portion outside such jurisdiction, the responsibility of the international fisheries organization.

3. Other Suggestions

- 3.1 The area to which the Convention should apply should include Statistical Areas 0 and 6.

It is suggested that, for completeness of the scientific data available and without in any way affecting the juridical regime of the different waters included, that area should go up to the shore of the coastal states.

- 3.2 All the articles in the present Convention should be reviewed, specially in relation to voting and financing procedures, in order to conclude what procedural principles to adopt when drafting or redrafting the new text.

It is suggested that the substance of the present Article VIII may be maintained with the simple addition of the following words:

"Recommendations shall not be made for waters of the Convention Area within national fisheries jurisdiction without the affirmative vote of the coastal state exercising such jurisdiction."

WORKING GROUP OF EXPERTS ON THE FUTURE OF ICNAF  
Ottawa, 5-7 October 1976

Suggested Approach to Future Multilateral Cooperation in the Northwest Atlantic Ocean

- Submitted by L.H. Legault

A. Coastal State Management

The point of departure for this suggested approach is the exercise by coastal states of sovereign rights in respect to the conservation, management, exploitation, and utilization of living resources in maritime zones extending to 200 miles from the baselines of their territorial sea. The multilateral cooperation arrangements outlined in Part B below would by their very nature take into account and reflect this coastal state management function and authority. The international convention establishing the multilateral arrangements would not, however, attempt to define or make explicit provision for the exercise of the coastal state's jurisdiction within 200 miles.

B. Multilateral Arrangements

1. There would be established, under a single new international convention, two separate bodies (with the possibility of auxiliary bodies and panels) serving two distinct functions in two different geographical areas, as follows:
  - (i) An international fisheries commission for the management of fisheries for stocks outside the 200-mile zones of coastal states in a geographical area with outer limits corresponding to those of the present ICNAF Convention Area. In the case of stocks occurring wholly outside the 200-mile zones, the proposal of management measures would be the responsibility of the commission acting independently. In the case of fisheries for stocks occurring both inside and outside the zones, the convention should ensure appropriate coordination of regulatory measures; thus, for stocks substantially within the zone of a coastal state, measures proposed by the commission should be complementary to and consistent with measures by that coastal state. Membership in the commission would be open to participants in the fisheries in the convention area described above.
  - (ii) A scientific council to serve as a forum for scientific cooperation in a wider convention area corresponding to that enclosed within the northern, eastern and southern limits of the present ICNAF Convention Area, including Statistical Areas 0 and 6. The council would answer questions - - relating to the scientific basis for regulatory measures - - put to it by the commission described above (and its individual members) in respect to its area of responsibility, or by the coastal states in respect to their areas of responsibility, or where appropriate by commission and coastal state jointly. Membership in the scientific council would be open to states participating in the fisheries within the geographical areas designated in this sub-paragraph and sub-paragraph (i) above.
2. A single secretariat - the existing ICNAF Secretariat - could service both the new international commission and the new scientific council, in order to promote efficiency and coordination and to reduce costs.
3. The proposed multilateral arrangements would be without prejudice to and would not preclude the establishment of bilateral mechanisms between neighbouring coastal states.

C. Coastal State Multilateral Consultation Arrangements Inside 200 Miles

A coastal state desiring to organize and conduct multilateral consultations in respect to fisheries matters within its jurisdiction could do so in conjunction with meetings of the commission described in paragraph 1(i) of Part B above. This, however, would be outside the convention framework proper and would not be touched upon in the convention.

WORKING GROUP OF EXPERTS ON THE FUTURE OF ICNAF  
Ottawa, 5-7 October 1976

Discussion Paper for Working Group of Experts on the Future of ICNAF

- Submitted by E. Oltuski

1. Convention Area

Shall be all waters enclosed within ICNAF's present limits, including Statistical Areas 0 and 6.

2. Scientific Cooperation

As it stands in Article VI for the entire Convention Area.

3. Management

As it stands in Article VIII (revised) in that part of the Convention Area that lies outside the territorial and jurisdictional waters of the coastal states.

In the case of fisheries for stocks occurring both inside and outside of the jurisdiction of the coastal states, the Convention should ensure appropriate coordination of regulatory measures.

4. Multilateral Consultation

The coastal states will consult the Commission, if they so wish, on the benefit of regulatory measures to be established in that part of the Convention Area that lies within their jurisdiction and on the allocation of surpluses.

5. Panels

The Panels will continue to exist in their present form when dealing with matters pertaining to the Convention Area outside the jurisdiction of the coastal states; and as consultative bodies when dealing with matters pertaining to the Convention Area within the jurisdiction of the coastal states and at their request.

