

PART III

Report of the Standing Committee on the Fishing Activities of Non-Contracting Parties in the Regulatory Area (STACFAC)

1. Opening by Chairman

The meeting was called to order by the Chairman, Mr. Daniel Silvestre (France – SPM) at 2PM on 16 September 2002. The following Contracting Parties were present: Canada, Denmark (in respect of the Faroe Islands and Greenland), the European Community, France (in respect of St. Pierre and Miquelon), Japan, Norway, the Russian Federation and the United States of America. A representative from the Food & Agriculture Organization was also present as an observer. (Annex 1)

2. Appointment of Rapporteur

Ms. Allison Saunders (Canada) was appointed rapporteur.

3. Adoption of Agenda

The agenda was adopted with recognition that, as STACFAC did not meet in 2001, information from that year should also be considered so that there would be no gaps in STACFAC's work (Annex 2). The Chairman indicated that items 4 and 5 would be dealt with together.

4. Review of 2002 information on activities of Non-Contracting Party vessels in the Regulatory Area

5. Review of 2002 information on landings and transshipments of fish caught by Non-Contracting Party vessels in the Regulatory Area

Canada presented a report on Non-Contracting Party activity in the Regulatory Area (STACFAC WP 02/1) and circulated photographs of the activity. The report highlighted that to date in 2002 six vessels flagged to Belize have harvested an estimated 6000 tonnes of oceanic redfish in divisions 1F and 2J. Canada also indicated that through communications with the vessels and with Belize and Cyprus, it had determined that one of the vessels (Kadri) was of Belizean registry but that several of the vessels (Olchan, Oyra and Okhotino) were of dual registration, having been registered in Cyprus but "chartered-in" to the Belizean registry with effect from 29 March 2002 – 28 March 2003. Canada indicated that it continued to seek information from Belize and Cyprus regarding the registration of the vessels Ostroe and Ostrovets. Canada further advised that the Ostroe had been photographed transshipping fish to the Russian flagged cargo vessel Metelitsa. Canada stressed that further information was required from Russia regarding these vessels.

The Russian Federation indicated it had only recently received information on these vessels. Inquiries had revealed that the vessels were all formerly Russian and that the ship owner had decided to reflag to pursue 1F redfish. The representative of the Russian Federation confirmed that the Metelitsa was registered in Murmansk but that it had not landed or transhipped into a Russian port. The Russian Federation stated its willingness to investigate these issues and report to NAFO but stressed the need for an official paper, such as a letter from NAFO, to commence this process.

While Canada's report will be circulated to all Contracting Parties by the Secretariat pursuant to paragraph 6 of the Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO ("Scheme"), it was agreed to also recommend to the General Council that the Executive Secretary send a letter to the Russian Federation seeking information on the registration of the six fishing vessels and encouraging Russia to take action vis à vis the transshipment to the Metelitsa (Annex 3). Canada also undertook to provide copies of the circulated photos as well as more detailed information regarding the vessels (eg: call signs) to the Russian Federation.

There was some discussion as to whether the transshipment activity to a Contracting Party fell more properly within the purview of STACTIC or STACFAC. It was noted that this question of forum would arise with any activity that involved both Contracting and Non-Contracting Parties.

In addition to the notification of the flag state by the Secretariat required by paragraph 6 of the Scheme, it was also agreed to recommend to the General Council that letters from the President of NAFO seeking more information on the registration of the fishing vessels be sent to Belize and Cyprus (Annexes 4 and 5). France (SPM) agreed to deliver the letter to Belize through diplomatic channels and Canada undertook to similarly deliver the letter to Cyprus.

6. Review of information on imports of species regulated by NAFO from Non-Contracting Parties whose vessels have fished in the Regulatory Area

There was no information under this agenda item.

7. Reports by Contracting Parties on diplomatic contacts with Non-Contracting Party Governments concerning fishing in the Regulatory Area

The representative of the European Community reported that they had sent a letter to Sao Tome and Principe on 17 October 2000 to which no reply had been received. The Chair noted that in response to an unrelated matter, the Government of France had received a response from Sao Tome and Principe advising that Sao Tome and Principe now only registered fishing vessels for fisheries in its coastal waters.

The representative of Canada advised that in spring 2001, letters had been sent to Panama and Honduras but the only response had been an acknowledgement of receipt. The USA noted that it had sent letters to Belize and Sierra Leone.

It was noted that follow up on responses or lack thereof from Non-Contracting Parties was important. To facilitate effective follow up, it was agreed to recommend to the General Council that the Secretariat be asked to produce annually a table compiling past communications (including responses) with Non-Contracting Parties. It was further noted that, once compiled, STACFAC could consider sharing this table with other regional fisheries management organizations.

8. Reports by Contracting Parties on legal, administrative and practical actions that have been taken to implement the NAFO Scheme

The EC noted that the Non-Contracting Party vessels observed fishing in the NAFO Regulatory Area in 2002 had also been sighted fishing in the NEAFC Regulatory Area. The representative of Denmark (in respect of the Faroe Islands and Greenland) noted that sightings of Non-Contracting Party vessels in the NEAFC Regulatory Area are reported by the NEAFC Secretariat to the NAFO Secretariat at the time of the sighting for distribution to all parties. He noted that such sharing of information appeared to be happening on an informal basis but that it would be useful to ensure that such information would be exchanged. It was agreed to ask the NAFO Secretariat to write to the NEAFC Secretariat suggesting this information always be exchanged without delay.

9. Discussion of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing

The representative for the European Community noted that the IPOA on IUU encouraged countries to complete a national plan of action no later than 2004. In this respect, he noted the EC planned to reinforce control measures, including its contribution to the international surveillance network. As well, anticipating the entry into force of the FAO Compliance Agreement, the European Community, in 2003, would continue to provide fleet information to FAO as required by article 6 of that Agreement. The European Commission has provided a proposal to member states underlining the need for consistency between actions taken by regional fisheries management organizations on IUU fishing and emphasizing the necessary definition of the "genuine link" between a flag state and its vessels as well as the necessary definition of the rights and obligations of port states. This document will be presented to the European Council of Ministers as part of the reform of the Common Fisheries Policy. Thus, the EC anticipates that it

will be able to present the community plan of action on IUU fishing to the 2003 meeting of the FAO Committee on Fisheries.

The observer from FAO drew attention to its publication of technical guidelines under the IPOA on IUU as well as a plain language version of the IPOA. Copies of these publications may be obtained from FAO in multiple languages. The observer also noted that FAO will be hosting, from 4-6 November 2002 in Rome, an expert consultation to review port state measures to combat IUU fishing.

The Chairman then drew attention to a paper prepared by the Norwegian delegation and circulated at the General Council meeting in January 2002 as GC WP 02/1. The paper is a review by Norway of the portions of the IPOA on IUU relating to regional fisheries management organizations and presents Norway's assessment as to whether NAFO has already established measures indicated in the IPOA. Given the limited time available, delegates briefly reviewed the Norwegian paper and decided to recommend to General Council that STACFAC be mandated to determine if measures relating to the provisions of the IPOA on IUU had been established in NAFO or whether further action by NAFO was desirable. STACFAC would then report its assessment to General Council to seek guidance on the development of proposals. Canada observed that the Norwegian paper assessed the portion of the IPOA on IUU of most relevance to NAFO. Canada noted that the IPOA on IUU was also relevant to Contracting Parties and indicated that in seeking its mandate from General Council, STACFAC should voice its limitations in this respect.

10. Report and Recommendations to the General Council

The representative of Denmark (in respect of the Faroe Islands and Greenland) indicated that the most recent incident of fishing by Non-Contracting Parties in the Regulatory Area highlighted the need for procedural improvements. Notably, he indicated that Contracting Parties submitting information pursuant to paragraph 6 of the Scheme should mark it accordingly for easy identification by the Secretariat. There was general agreement on this suggestion.

The representative of Denmark (in respect of the Faroe Islands and Greenland) also recommended clarification of the processes to be followed by Contracting Parties in implementing paragraph 11 of the Scheme. He sought the views of the Committee on the application of paragraph 11 to transshipment at sea. In response, the representative of Canada indicated her understanding that as the term "transshipment" was not modified in the Scheme, it applied to all types of transshipment. She further noted that the Drafting Group engaged in overhauling the NAFO Conservation and Enforcement Measures had recommended incorporation of a definition of "fishing vessel" which included transshipment vessels. The USA agreed with the points made by Canada and stated that the Scheme defined "fishing activity" to include transshipment and that under the Scheme a "fishing vessel" was simply one engaged in a "fishing activity". The USA indicated that the ambiguity in paragraph 11 lay with whether a Contracting Party vessel which had received a transshipment of fish from a Non-Contracting Party vessel was covered by the landing and transshipment restriction applicable to Non-Contracting Party vessels. The EC concurred and noted that article 4 of its Council Regulation 1262/2000 of 8 June 2000, implementing the Scheme, prohibited transshipment from Non-Contracting Party vessels, including transshipment at sea.

The representative of Canada indicated that while guidance from STACFAC on the implementation of paragraph 11 might be helpful, the Scheme should not prescribe how Contracting Parties were to fulfill their obligations. By way of example, she further noted that Canada fulfilled its obligation in this regard by requiring a licence for all transshipments occurring in Canadian ports or waters. There was general agreement that developing guidance on paragraph 11, perhaps to be included as an annex to the Scheme, would be useful.

The representative of Canada also indicated that given the fishery on which the recent Non-Contracting Party activity was occurring, it would be useful to add oceanic redfish (pelagic *Sebastes mentella*) to annex A or B of the Scheme as appropriate.

The representative of Canada also drew attention to several discrepancies between the Scheme and paragraphs of the NAFO Conservation and Enforcement Measures and suggested that it might be appropriate to rectify them. In particular, she highlighted that section I.J of the Conservation and Enforcement Measures referred only to Contracting Parties ensuring that "their fishing vessels" do not receive transshipments from Non-Contracting Parties

as opposed to “their vessels” and that, for clarity, VII.1(i) should refer to port calls by Non-Contracting Party and Contracting Party vessels that have engaged in fishing for stocks in the Regulatory Area. In addition, she suggested that it would be useful for the Drafting Group engaged in the overhaul of the Conservation and Enforcement Measures to review the possible incorporation of the entirety of the Scheme in the Conservation and Enforcement Measures. There was general approval for this suggestion, although it was acknowledged that there had been some discussions in STACTIC with respect to the Scheme in the past.

STACFAC thus recommends to the General Council that:

1. the Executive Secretary send a letter to the Russian Federation seeking information on the registration of the six Belizean flagged fishing vessels and encouraging the Russian Federation to take action vis à vis the transshipment to a Russian flagged cargo vessel by a Non-Contracting Party vessel;
2. the President of NAFO write to Belize and Cyprus seeking more information on the registration of the Belizean fishing vessels and that these letters be delivered by the Governments of France and Canada respectively;
3. the Secretariat be asked to produce annually a table compiling past communications (including responses) with Non-Contracting Parties regarding fishing in the NAFO Regulatory Area;
4. the NAFO Secretariat write to the NEAFC Secretariat suggesting that information on sightings of Non-Contracting Party vessels fishing in their respective regulatory areas always be exchanged without delay;
5. STACFAC be mandated to determine if measures relating to all relevant provisions of the IPOA on IUU have been established in NAFO or whether further action is desirable and report its assessment to General Council. In this respect STACFAC draws to the attention of the General Council that the IPOA on IUU is relevant to both Non-Contracting Parties and Contracting Parties but that STACFAC is limited to assessing the IPOA with regard to Non-Contracting Parties;
6. Contracting Parties submitting information pursuant to paragraph 6 of the Scheme should mark it accordingly for easy identification by the Secretariat.
7. STACFAC develop guidance on implementation of paragraph 11 of the Scheme;
8. the specific discrepancies noted between the Scheme and the Conservation and Enforcement Measures per agenda item 10 above be drawn to the attention of the Fisheries Commission for STACTIC’s consideration;
9. contingent upon adoption of relevant proposals by the Fisheries Commission, that oceanic redfish (pelagic *Sebastes mentella*) be added to annex A or B, as appropriate, of the Scheme;
10. it recommend to the Fisheries Commission that the Drafting Group engaged in the overhaul of the Conservation and Enforcement Measures review the possible incorporation of the entirety of the Scheme in the Conservation and Enforcement Measures as part of its work.

11. Election of Chairman and Vice-Chairman

The Chairman brought to the attention of the Committee that the terms of service of both the Chairman and the Vice-Chairman would soon expire. Mr. Daniel Silvestre (France – SPM) was re-elected as Chairman for the next two years. Ms. Nadia Bouffard (Canada) was re-elected as Vice-Chairman for the next two years.

12. Other Matters

No other matters were discussed.

13. Adjournment

The Committee adjourned at 7:30PM on Wednesday 18 September 2002.

Annex 1. List of Participants

Canada	Ms. Nadia Bouffard Ms. Judy Dwyer Ms. Allison Saunders
Denmark (in respect of the Faroe Islands and Greenland)	Mr. Einar Lemche Mr. Árni Olafsson
European Community	Mr. Yan Becouarn Mr. Per Heller Mr. Christophe Le Villain
France (in respect of Saint Pierre and Miquelon)	Ms. Sarah Ausseil Mr. Daniel Silvestre
Japan	Mr. Sato Tsuneaki
Norway	Ms. Turid Rodrigues Eusébio
Russian Federation	Mr. Alexander Okhanov Mr. Vadim Agalakov
USA	Mr. Gene Martin
	Observers
FAO	Mr. David Doulman

Annex 2. Agenda

1. Opening by Chairman, Daniel Silvestre (France – SPM)
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Review of 2002 information on activities of Non-Contracting Party vessels in the Regulatory Area
5. Review of 2002 information on landings and transshipments of fish caught by Non-Contracting Party vessels in the Regulatory Area
6. Review of information on imports of species regulated by NAFO from Non-Contracting Parties whose vessels have fished in the Regulatory Area
7. Reports by Contracting Parties on diplomatic contacts with Non-Contracting Party Governments concerning fishing in the Regulatory Area
8. Reports by Contracting Parties on legal, administrative and practical actions that have been taken to implement the NAFO Scheme (the NAFO Scheme to promote compliance....)
9. Discussion of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing
10. Report and Recommendations to the General Council
11. Election of Chairman and Vice-Chairman
12. Other Matters
13. Adjournment

Annex 3. Letter to Russian Federation

Address (Russian Head of Delegation to NAFO)

Dear _____:

I am writing officially to draw your attention to a report on fishing activities by Non-Contracting Parties in the NAFO Regulatory Area (STACFAC WP 02/1). This report indicates that during 2002 six Belizean flagged fishing vessels were sighted engaged in fishing activities in the NAFO Regulatory Area by Canadian surveillance. As there is some indication that these vessels were formerly registered in Russia, I would be grateful for your confirmation that the following vessels are no longer on the register of the Russian Federation or entitled to fly its flag: Olchan, Oyra, Kadri, Okhotino, Ostroe and Ostrovets. Any information you can provide on the current registry of these vessels would also be greatly appreciated. As you are aware, there is some indication that a number of the vessels may be registered in Belize and Cyprus and NAFO is also seeking information from these countries in this regard.

I would also like to officially draw your attention to an incident of transshipment, also noted in the attached report, from one of these Non-Contracting Party vessels (Ostroe) to a Russian flagged cargo vessel (Metelitsa). As a Contracting Party of NAFO, I would draw to your attention paragraph 11 of the Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO. This paragraph requires Contracting Parties to ensure that their vessels do not receive transshipments of fish from Non-Contracting Party vessels that have been sighted and reported as having engaged in fishing activities in the NAFO Regulatory Area.

I would be grateful for your prompt attention to these matters and look forward to your response.

Sincerely,

Executive Secretary

Annex 4. Letter to Belize

Address (appropriate interlocutor, Foreign Ministry of Belize)

Dear _____:

I am writing at the request of the Contracting Parties of the Northwest Atlantic Fisheries Organization (NAFO) to raise the highest level of concern about six vessels flying the flag of Belize which have been sighted engaged in fishing activities in the NAFO Regulatory Area. The vessels in question are the Olchan, Oyra, Kadri, Okhotino, Ostroe and Ostrovets.

This letter is being sent to you pursuant to the Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO, which was adopted by Contracting Parties to NAFO in 1997. The Scheme calls for measures to be taken against Non-Contracting Party vessels sighted fishing in the NAFO Regulatory Area. A copy of the Scheme, which has been sent to you on previous occasions, is attached.

After several years without sightings of Belizean flagged vessels fishing in the NAFO Regulatory Area, the NAFO Contracting Parties are very concerned to see Belizean fishing vessels harvesting fish stocks in the NAFO Regulatory Area. The NAFO Contracting Parties are deeply concerned that Non-Contracting Parties which allow vessels flying their flag to fish in the NAFO Regulatory Area are undermining the effectiveness of NAFO's conservation and management measures as well as violating their duty to cooperate in the conservation and management of these fish stocks.

I would appreciate receiving any information you may have about the above-mentioned vessels as soon as possible. In addition, on behalf of the NAFO Contracting Parties, I would urge you to ensure that these vessels comply with conservation and management measures in force in areas in which they engage in fishing activities.

I look forward to your prompt response.

Sincerely,

President of NAFO

Annex 5. Letter to Cyprus

Address (appropriate interlocutor, Ministry of Foreign Affairs)

Dear _____:

I am writing at the request of the Contracting Parties of the Northwest Atlantic Fisheries Organization (NAFO) to express concern about six vessels apparently registered in Cyprus which have been sighted engaged in fishing activities in the NAFO Regulatory Area. The vessels in question are the Olchan, Oyra, Kadri, Okhotino, Ostroe and Ostrovets.

This letter is being sent to you pursuant to the Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO, which was adopted by Contracting Parties to NAFO in 1997. The Scheme calls for measures to be taken against Non-Contracting Party vessels sighted fishing in the NAFO Regulatory Area. A copy of the Scheme is attached.

The NAFO Contracting Parties are deeply concerned that Non-Contracting Parties which allow vessels flying their flag to fish in the NAFO Regulatory Area are undermining the effectiveness of NAFO's conservation and management measures as well as violating their duty to cooperate in the conservation and management of these fish stocks.

I would appreciate receiving any information you may have about the above-mentioned vessels, specifically their registration and entitlement to fly the Cypriot flag, as soon as possible. In addition, on behalf of the NAFO Contracting Parties, I would urge you to ensure that these vessels comply with conservation and management measures in force in areas in which they engage in fishing activities.

I look forward to your early response.

Sincerely,

President of NAFO