

PART III

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

1. Opening by Chairman

As the Chairman, Mr. Daniel Silvestre (France – SPM) was unable to attend, the Vice-Chair, Ms. Nadia Bouffard (Canada) opened the meeting at 10AM on 15 September 2003. The meeting was attended by representatives from Canada, Denmark (in respect of the Faroe Islands and Greenland), the European Union, Iceland, Japan, Norway, Russian Federation, Ukraine, and the United States (annex 1).

2. Appointment of Rapporteur

Ms. Allison Saunders (Canada) was appointed rapporteur.

3. Adoption of Agenda

The Chair noted that there were some linkages between agenda items 9 and 11 and that flexibility should be allowed in moving between these items. With this observation, the agenda was adopted (annex 2).

4. Review of 2003 information on activities of Non-Contracting Party vessels in the Regulatory Area

The Chair drew attention to STACFAC Working Paper 03/1 and its addendum, the compilation of correspondence with Non-Contracting Parties prepared by the Secretariat. The EU representative referred to letters from the EU to Non-Contracting Parties contained in this compilation and underscored the need for all Contracting Parties to pay special attention to sightings and communicate them to NAFO as a matter of the utmost urgency.

The correspondence indicates that eight Non-Contracting Party vessels were sighted fishing in the NAFO Regulatory Area in 2003: Oyra, Olchan, Ostroe, Ostrovets, Okhatino, Mikhail Boronin, Kadri and Seal. The first five of these vessels were sighted engaged in fishing activities in the NAFO Regulatory Area in 2002 flying the flag of Belize. In 2003, they were sighted engaged in fishing activities under the flag of the Dominican Republic. The Kadri was also sighted engaged in fishing activities in 2002 under the Belizean flag and has continued operations while flying that flag. The Mikhail Boronin also flies the Belizean flag. The Seal flies the flag of the Dominican Republic but was not sighted engaged in fishing activities in 2002.

Based on the area in which the vessels were sighted as well as the time of year they are fishing, it may be inferred that they are harvesting oceanic redfish. Iceland advised that the vessels were familiar to it as vessels that had fished in the Regulatory Area of the Northeast Atlantic Fisheries Commission (NEAFC) earlier in the season. Iceland had boarded and inspected some of these vessels and confirmed by that means that the targeted species was oceanic redfish. Iceland also noted that it had repeatedly observed transshipments by these vessels in the NEAFC Regulatory Area and had provided information on this subject to NEAFC. Iceland undertook to also provide this information to NAFO for circulation to all Contracting Parties.

Based on this information, STACFAC members decided that letters should be written to Belize and the Dominican Republic and gratefully accepted the offer of the European Union to deliver them by way of a diplomatic demarche. Japan expressed frustration at only sending letters, particularly where the flag state lacks tools to take action on the high seas and vessels flagged to that state do not generally return to its ports so that catch is not offloaded and verified there. Japan advocated more effective measures for dealing with vessels of Non-Contracting Parties which undermine NAFO measures. The Chair noted that proposals for modification to the Scheme would be the subject of discussion under a later agenda item and that NAFO was required to respond to the 2003 incidents using the provisions of the Scheme currently in place.

It was agreed to send a letter to Belize (annex 3) acknowledging the deregistration of the Oyra, Olchan, Ostroe, Ostrovets and Okhatino but emphasizing that deregistration was not necessarily the first act of a responsible flag

state; rather, other appropriate actions to sanction the vessel and deprive it of the benefits accruing from its IUU activities should be considered. The letter would also seek further information on the High Seas Fishing Act adopted by Belize in 2002 and encourage Belize to join the International MCS Network. Norway took the opportunity to note that those NAFO Contracting Parties which had not yet joined the International MCS Network should be urged to do so. It was agreed that the letter would not seek clarification of the ownership of some of the vessels, in part because giving the appearance that it was the owners and not the flag state ultimately responsible for the vessels' actions was undesirable. As well, some believed that a formal communication of this type would not be suitable for gathering such information. For the information of Parties, the Russian delegation advised that a Russian firm (in part using Ukrainian capital) wished to purchase the Mikhail Boronin and place it on the Russian registry.

The correspondence from the Kadri's owners to the Belizean vessel registry (INMARBE) was also reviewed (attachments 4 and 8 of WP 03/1). STACFAC considered this correspondence to have been forwarded to NAFO solely for information as it was Belize's responsibility to deal with the allegations made by the vessel owners. For information, Canada advised that the St. John's port call noted by the Kadri was made while the vessel was flying the Russian flag.

It was agreed that the letter to the Dominican Republic (annex 4) would contain many of the same elements.

5. Review of 2003 information on landings and transshipments of fish caught by Non-Contracting Party vessels in the Regulatory Area

No information on such transshipments and landings for 2003 was presented.

Russia advised that it had taken action against the Metelitsa, a Russian flagged cargo vessel that had received fish from a Non-Contracting Party vessel in 2002. Specifically, the captain of the vessel had been dismissed as had the deputy director of the company who had made the transshipment decision. The Russian delegate indicated that this information would subsequently be provided to NAFO in a letter.

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

Japan introduced STACFAC Working Paper 03/2 (annex 5), a presentation by Japan on global import statistics. The delegate from Japan drew attention to the large market share held by Japan for both redfish (69%) and Greenland halibut (39%). He noted that the Greenland halibut price in Japan had recently increased and that IUU vessel operators would not overlook this opportunity to make profits. He advocated that NAFO work intersessionally on an effective trade tracking system for adoption in 2004.

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

In respect of letters sent following the 2002 NAFO meeting, Canada reported that it had delivered the letter to Cyprus (attachment 1 of STACFAC WP 03/1) but had not received any response from Cypriot authorities. NAFO had also not received any response from Cypriot authorities. Correspondence with Belize had ensued following the delivery of the letter by France and is found in WP 03/1. The EU advised that it had not yet received a response to letters sent in August 2003 to Belize and the Dominican Republic (attachment 11 of STACFAC WP 03/1 and addendum to STACFAC WP 03/1 respectively).

8. Reports by Contracting Parties on legal, administrative and practical actions that have been taken to implement the NAFO Scheme to Promote Compliance by Non-Contracting Party Vessels

The Chair noted that this agenda item dated from the introduction of the Scheme and was perhaps not as relevant now, although if changes were made to the Scheme it might be relevant next year.

Norway indicated that one way in which it implements the Scheme is to ensure that all information received from other Contracting Parties is provided to port authorities so that port access will be denied to the vessel in question. Other STACFAC members agreed that this was a laudable practice and encouraged its application.

Denmark (in respect of the Faroe Islands and Greenland) questioned why inspections were predicated on the vessel being sighted engaged in fishing activities in the NAFO Regulatory Area. He noted that between the NAFO and NEAFC Schemes for Non-Contracting Parties the entire North Atlantic Ocean was covered: if a fishing vessel was in the area, it was more than logical to conclude they were fishing. The EU representative noted that it is standard practice in states to require prior notification for port use and that this practice facilitated the inspection in port of all Non-Contracting Party vessels. She indicated that an obligation to inspect all vessels that had declared an intent to land species regulated by NAFO could be created. Norway concurred with the EU, indicating that such a prior notification requirement is part of the International Plan of Action on Illegal, Unreported and Unregulated Fishing (IPOA on IUU). Norway also noted that the notification should also apply to Contracting party vessels, something which may already be under discussion in STACTIC.

Norway also recounted the moral suasion successfully applied to halt the refueling of Non-Contracting Party vessels by a Norwegian refueling vessel. While there is a lack of legal authority to halt the activity, the Norwegian company proved amenable to refueling Contracting Party vessels only once advised its activities were supporting IUU fishing. The EU indicated that provisions regarding refusal of refueling and resupply were included in the measures adopted by Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) relating to the identification and listing of vessels presumed to be engaging in IUU fishing in the CCAMLR Area. The EU also noted that similar provisions were foreseen in proposals it has tabled in NEAFC and NAFO establishing procedures to identify and list IUU vessels. Canada recounted an incident where Canadian companies had been successfully encouraged to not purchase fish caught by a Non-Contracting Party vessel.

9. Assessment on implementation of the FAO IPOA on IUU within NAFO

The Chair observed that this was an outstanding matter and noted in this regard the working paper prepared by Norway and presented to the Special Meeting of General Council in January 2002 (GC WP 02/2). It was agreed that the Norwegian paper would be reviewed with the intention of indicating areas where NAFO should do more work to implement the IPOA on IUU. However, as the Norwegian paper deals only with the regional fisheries management organization portion of the IPOA, it should be noted that STACFAC has yet to review other portions of the IPOA and assess their implementation in NAFO. STACFAC underlines that the implementation of the IPOA is a task which very much involves STACTIC given the need to deal with Contracting Party matters. In this regard, it was felt that a joint session of STACFAC and STACTIC would be useful. Note also that there may be additional actions, not identified by STACFAC, that STACTIC may deem appropriate in order to implement the regional fisheries management organization portion of the IPOA. It was also agreed that STACFAD should be kept abreast of plans to implement the IPOA so that cost elements could be fully considered. The US also encouraged all Parties to develop and implement their own national plan of action.

STACFAC recommends additional work by NAFO as follows (IPOA paragraphs are reproduced in italics for convenience):

Paragraph 79

As the cooperation of all relevant States is important for the success of measures taken by the relevant regional fisheries management organization to prevent, deter and eliminate IUU fishing, States which are not members of a relevant regional fisheries management organization are not discharged from their obligation to cooperate, in accordance with their international obligations, with that regional fisheries management organization. To that end, States should give effect to their duty to cooperate by agreeing to apply the conservation and management measures established by that regional fisheries management organization, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

This was noted as a useful paragraph to refer to when writing Non-Contracting Parties about activities of their vessels that undermine NAFO measures.

Paragraph 80.5

80. States, acting through relevant regional fisheries management organizations, should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter and eliminate IUU fishing. Consideration should be given to including the following measures:

...

80.5 development and maintenance of records of vessels fishing in the area of competence of a relevant fisheries management organization, including both those authorized to fish and those engaged in or supporting IUU fishing;

It was recognized that this paragraph refers to the development of a list of IUU vessels and agreed that NAFO should develop such a negative list. It was generally felt that a positive list would not be useful as there is no provision for cooperating Non-Contracting Parties in NAFO.

Paragraph 80.6

(same chapeau)

80.6 development of methods of compiling and using trade information to monitor IUU fishing

It was noted that trade information is not generally used to monitor IUU fishing. With the presentation by Japan on import statistics at this meeting, it was noted that NAFO is now likely embarking on the use of trade information.

Paragraph 80.7

(same chapeau)

80.7 development of MCS, including promoting for implementation by its members in their respective jurisdictions, unless otherwise provided for in an international agreement, real time catch and monitoring systems, other new technologies, monitoring of landings, port control, and inspections and regulations of transshipment, as appropriate;

Norway questioned whether real time reporting currently exists in NAFO. The Chair indicated that some elements of this paragraph were under discussion by STACTIC (for example in the pilot project) and that any work by STACTIC on MCS issues is supported by the IPOA and should be encouraged.

Paragraph 80.10

(same chapeau)

80.10 where appropriate, market-related measures in accordance with the IPOA;

Norway noted that NAFO has not developed trade or market-related measures. Japan stated that equally severe penalties must be established for Contracting Parties. Unjustifiable discrimination in penalties levied on Contracting Parties and those imposed on Non-Contracting Parties would render the use of trade measures untenable. The EU delegate noted that the need for even-handedness in penalties for Contracting Parties and Non-Contracting Parties should be drawn to STACTIC's attention.

Paragraph 80.11

(same chapeau)

80.11 definition of circumstances in which vessels will be presumed to have engaged in or to have supported IUU fishing;

The EU noted that a determination of what constitutes IUU fishing in the case of Contracting Parties needs to be made and observed that STACTIC determines what constitutes a serious infringement: is today's serious infringement tomorrow's IUU fishing? Norway concurred that the concept of IUU fishing by Contracting Parties should be explored. The Chair indicated that the definition of the circumstances constituting IUU fishing for Contracting Parties was a STACTIC matter.

Paragraph 80.12

(same chapeau)

80.12 development of education and public awareness programmes;

NAFO has not developed these. It was agreed that use of the NAFO website as a public awareness and education tool should be explored.

Paragraph 80.13

(same chapeau)

80.13 development of action plans; and

NAFO has not developed an action plan. The EU noted that an action plan could be a NAFO-adopted version of the IPOA and that this was of limited utility. Rather NAFO should simply implement the IPOA. There was general agreement on the Chair's comment that assessing what had not been implemented and recommending areas for further work within specified timeframes would in essence be an action plan.

Paragraph 80.14

(same chapeau)

80.14 where agreed by their members, examination of chartering arrangements, if there is concern that these may result in IUU fishing.

Norway noted that NAFO has some measures on chartering but has not dealt with the issue of vessels flag-hopping between NAFO Contracting Parties to utilize fishery resources. This would be an issue for STACTIC.

Paragraph 81

States, acting through relevant fisheries management organizations, should compile and make available on a timely basis, and at least on an annual basis, to other regional fisheries management organizations and to FAO, information relevant to the prevention, deterrence and elimination of IUU fishing, including;

81.1 estimates of the extent, magnitude and character of IUU activities in the area of competence of the regional fisheries management organization;

81.2 details of measures taken to deter, prevent and eliminate IUU fishing;

81.3 records of vessels authorized to fish, as appropriate; and

81.4 records of vessels engaged in IUU fishing.

Norway indicated that information is not provided to regional fisheries management organizations or to FAO and that this is an area for improvement. It could entail the involvement of STACTIC. The US indicated that measures were made available on the web site, though whether they were publicized was another question. Canada believed that much of the information relating to IUU fishing, such as correspondence with Non-Contracting Parties, was available only on the members' section of the web site. The Chair indicated that the cost implications of transmission would need to be borne in mind. The US stated its belief that the matter was sufficiently important not to be minimized through cost-savings. The EU noted that there are concerns there may be liability issues connected with the publication of a list of IUU vessels and that consequently one should be careful with the treatment of this list, particularly if there are confidentiality requirements in the organization vis à vis information on the compliance of an individual vessel. Norway advocated publication of any IUU lists adopted by NAFO and the US pointed to practice of the International Commission for the Conservation of Atlantic Tunas as a possible precedent. In that Commission, once the IUU list has been finalized it is appended to the meeting report. It was agreed that STACFAD's assistance should be sought in determining both what information was available to the public on the NAFO website and what confidentiality requirements might apply to information regarding IUU vessels.

10. Development of guidance on implementation of paragraph 11 of the NAFO Scheme including report of STACTIC on incorporation of the entire Scheme in NCEM

As STACFAC is now considering significant amendments to the Scheme, it was noted that events had overtaken this agenda item.

11. Proposals for modifications of the Non-Contracting Party Scheme

The European Union introduced its proposal (STACFAC WP 03/3) to revise the Scheme to, inter alia, create a process for establishing a list of IUU vessels and consequences that would flow from the placement of vessels on that list. The EU stressed that the intention was to build upon the existing Scheme.

STACFAC members welcomed the initiative and expressed support for the concepts in the paper. STACFAC members also noted the need for close cooperation with NEAFC. Denmark (in respect of the Faroe Islands and Greenland) indicated that given the geographical proximity of the NAFO and NEAFC Convention Areas, similarity between their operational procedures was highly desirable (for example, ensuring that officials conducting port inspections were aware of moratoria in place in both organizations). He thus suggested that the NAFO Scheme be developed with the idea it could be revisited in light of any NEAFC proposal that is adopted. The EU delegate noted that a similar proposal is currently before PECCOE in NEAFC.

Japan noted that a number of the measures suggested in the proposal, such as denying licences to fish, chartering arrangements and registration to Non-Contracting Party vessels engaged in IUU fishing were ones that should be pursued immediately. However, with regard to trade measures, Japan noted that in order to meet WTO requirements that trade measures not unjustifiably discriminate between Parties and Non-Contracting Parties, it would be necessary to ensure that NAFO have in place sanctions of equal severity for Contracting Parties. Canada concurred with this observation. Towards that end the delegate of Japan suggested that NAFO should develop a similar scheme for Contracting Parties. This idea was supported by STACFAC members as something to be discussed jointly with STACTIC. The EU delegate also expressed support for equivalent measures for NAFO members but cautioned that it should not be assumed that a simple transfer of provisions from the Non-Contracting Party Scheme to a Contracting Party Scheme would be possible for the reasons, inter alia, expressed above in relation to paragraph 80.11 of the IPOA.

Japan also indicated that the species present in the NAFO Regulatory Area can be caught elsewhere in the world. He also noted that many of the species involved arrive in Japan in processed form via a third country. In order to make a system of trade restrictive measures function properly, a trade tracking scheme is required, particularly for Greenland halibut. The US noted that a variety of difficulties were entailed in a trade tracking system for species managed by NAFO.

For the reasons he had expressed, the Japanese delegate requested that articles of the EU proposal relating to the imposition of trade restrictive measures be placed in square brackets. Also with respect to these paragraphs, the Canadian delegate indicated that further consideration of due process issues might be required. For example, states which NAFO had determined had not rectified their fishing behaviour would need to be advised and provided with an opportunity to respond. The United States noted that any provisions of a revised scheme that contemplate trade restrictive measures should offer guidance on the scope of those measures, notably the species involved.

The United States requested that article 6(2) and a related phrase in article 3(1) be placed in square brackets in order to allow time for further thought on the implications of expanding the Scheme's existing presumption of undermining NAFO Conservation and Enforcement Measures to all Non-Contracting Party vessels within the scope of the EU proposal, not just those sighted engaged in fishing activities. The delegate from Denmark (in respect of the Faroe Islands and Greenland) requested that the phrase "referred to in article 3" in article 6(1) be placed in square brackets as he believed the provision would be more effective if it dealt with all transshipment from Non-Contracting Party vessels. The square brackets around article 9(4) reflect the need for further discussion on the extent of information that should be publicized beyond NAFO Contracting Parties and Non-Contracting Parties whose vessels are included on the list.

Since parts of the text in the EU proposal remain in square brackets, it was acknowledged that STACFAC is not in a position to recommend to the General Council the adopted of such a revised scheme. This notwithstanding, the EU delegation reserved the right to present the proposal directly to the General Council. All STACFAC members then agreed that depending on the realization of that intent, and on the outcome of any discussions on this matter in the General Council, work (in particular with regard to articles in square brackets and perfection of the drafting) on the revision of the Scheme on the basis of the revised EU proposal (annex 6) should continue within STACFAC during the intersessional period.

It was noted that given the linkages in the subject matter to be discussed and for reasons of cost, it would be useful if STACFAC's intersessional work on the Non-Contracting Party Scheme could be held either coincident with or back to back with a STACTIC intersessional meeting as well as any joint session of STACFAC and STACTIC.

12. Report and Recommendations to the General Council

STACFAC recommends to the General Council that:

1. the letter to Belize in annex 3 be signed by the President of NAFO and delivered to the Government of Belize by the European Union;
2. the letter to the Dominican Republic in annex 4 be signed by the President of NAFO and delivered to the Government of the Dominican Republic by the European Union;
3. STACFAC, at its 2004 regular meeting, begin to develop proposals to implement those provisions of the IPOA on IUU relating to regional fisheries management organizations it has identified for further work;
4. STACFAC, at its 2004 regular meeting, begin to assess whether additional provisions of the IPOA on IUU should be established in NAFO;
5. the General Council recommend to the Fisheries Commission that STACTIC play a role in the implementation of the IPOA on IUU in NAFO and specifically draw its attention to work that may be required pursuant to paragraphs 80.7, 80.10, 80.11, 80.14 and 81;
6. the General Council recommend to the Fisheries Commission that STACTIC and STACFAC meet intersessionally in joint session to consider implementation of the IPOA on IUU, the development of a trade-tracking system and the elaboration of a Scheme for Contracting Parties with content similar to that of the Scheme for Non-Contracting Parties; and
7. STACFAC meet intersessionally to conclude its work on the revised EU proposal, bearing in mind the reserved position of the EU to potentially raise the issue directly with General Council.

13. Other Matters

No other matters were discussed.

14. Adjournment

The Committee adjourned at 8:15 PM on Wednesday, 17 September 2003.

Annex 1. List of Participants

Canada	Ms. Kym Purchase Ms. Allison Saunders
Denmark (in respect of the Faroe Islands and Greenland)	Mr. Andras Kristiansen Mr. Einar Lemche Mr. Bent Roll
European Union	Ms. Fuensanta Candela-Castillo Mr. Staffan Ekwall Mr. Ignacio Escobar
Iceland	Mr. Kolbeinn Arnason
Japan	Mr. Masanori Miyahara Ms. Keiko Suzuki Ms. Miwako Takase Ms. Keiko Tsuyama
Norway	Ms. Heidi Johansen Mr. Terje Lobach
Russian Federation	Mr. Leonid Kokovkin
Ukraine	Mr. Leonard Chepel
United States	Mr. Gene Martin Mr. Pat Moran Ms. Deirdre Warner-Kramer
Observer	
Food and Agriculture Organization	Mr. David Doulman

Annex 2. Agenda

1. Opening by Chairman
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Review of 2003 information on activities of Non-Contracting Party vessels in the Regulatory Area
5. Review of 2003 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 to Promote Compliance by Non-Contracting Party Vessels
9. Assessment on implementation of the Food and Agriculture International Plan of Action on Illegal, Unreported and Unregulated Fishing (IPOA on IUU Fishing) within NAFO
10. Development on guidance on implementation of paragraph 11 of the NAFO Scheme including report of STACTIC on incorporation of the entire Scheme in the NAFO Conservation and Enforcement Measures
11. Proposals for modifications of the Non-Contracting Party Scheme
12. Report and Recommendations to the General Council
13. Other Matters
14. Adjournment

Annex 3. Letter to Belize

Address (appropriate interlocutor, Belize Foreign Ministry and INMARBE)

Dear:

I am writing to you at the request of the Contracting Parties to the Northwest Atlantic Fisheries Organization (NAFO) following their annual meeting (15-19 September 2003). During the meeting, Contracting Parties examined information on activities of Belizean flagged vessels in the NAFO Regulatory Area as well as correspondence regarding these vessels received from INMARBE. You will recall from my letter last year that NAFO members were gravely concerned about the activities of six vessels flagged to Belize that had engaged in fishing activities which undermine the effectiveness of NAFO Conservation and Enforcement Measures: the Olchan, Oyra, Okhotino, Ostroe, Ostrovets and Kadri. NAFO members understand that Belize deregistered the first five vessels effective 4 February 2003. As well, NAFO members understand that the Belizean Cabinet approved a High Seas Fishing Act in October 2002 which, according to correspondence from INMARBE, "reinforces Belize's commitment to conservation in that it embodies the requirements of the FAO's Compliance Agreement 1993, the Fish Stocks Agreement 1995 as well as the IPOA" (International Plan of Action on Illegal, Unreported and Unregulated Fishing). NAFO members would appreciate receiving more information on this Act.

NAFO members are encouraged by Belize's adoption of a High Seas Fishing Act that incorporates the international instruments through which states have recognized that global cooperation is needed to prevent, deter and eliminate IUU fishing and have committed that states not party to regional fisheries management organizations are not discharged from their obligation to cooperate with those organizations. To discharge this obligation to cooperate, states have agreed to apply the conservation and management measures adopted by the organization or adopt measures consistent with those conservation and management measures and should in any case ensure that vessels entitled to fly their flag do not undermine such measures.

Integral to these undertakings is the need for flag states to be responsible towards their vessels and to ensure that appropriate enforcement action is taken against vessels that do undermine conservation and management measures adopted by regional fisheries management organizations. While this may mean deregistration of vessels, it is vital that other appropriate measures on the vessels' activity be considered. These include prosecution, withdrawal of licences to fish and sanctions that are adequate in severity to be effective in securing compliance, discouraging violations and depriving offenders of the benefits accruing from those activities.

There are tools available to assist flag states in pursuing the global approach needed to be a responsible flag state. For example, in doing the checks necessary to ensure that a flag state is not registering a vessel previously registered elsewhere and found to be engaged in IUU fishing, the International Network for the Cooperation and Coordination of Fisheries-Related Monitoring, Control and Surveillance Activities (International MCS Network) can be helpful. NAFO members would encourage Belize to become a member of the International MCS Network and designate a contact for it. You can find information on the International MCS Network in the FAO Technical Guidelines on the Implementation of the IPOA on IUU (pages 17-20 and Appendix II) and online at <http://www.imcsnet.org>.

It is essential that all flag states take steps such as those noted above to avoid registration of IUU vessels and to act responsibly in enforcement matters if flag-hopping, the repeated and rapid changes of a vessel's flag for the purposes of circumventing conservation and management measures, is to be successfully combatted.

With that in mind, NAFO members acknowledge the deregistration of the Olchan, Oyra, Okhotino, Ostroe and Ostrovets from the Belizean registry. Very regrettably, these vessels have now been registered in the Dominican Republic and have been sighted engaged in fishing activities in the NAFO Regulatory Area in August 2003. NAFO will now be pursuing this issue with the new flag state, the Dominican Republic.

However, further to correspondence dated 25 August 2003 from the NAFO Executive Secretary (GF/03-400), NAFO parties observed with great concern that the Kadri continues to operate under the Belizean flag in a manner undermining NAFO's conservation and management measures and has been joined by the Mikhail Boronin. NAFO's Conservation and Enforcement Measures and other information on NAFO may be found on the Organization's web site: <http://www.nafo.int>. NAFO members would ask that you take all appropriate measures to

ensure the compliance of these vessels with NAFO measures. With regard to the correspondence forwarded to NAFO for information from the owners of the Kadri, NAFO members trust that you will deal with these allegations appropriately pursuant to your High Seas Fishing Act and the instruments it embodies.

You should also be advised that given the recent increase in fishing activities that undermine NAFO conservation and management measures, NAFO is considering the adoption of more stringent measures to deal with IUU fishing.

I thank you in advance for your earliest possible attention to these matters and look forward to your prompt reply regarding any information on and actions taken vis à vis the Mikhail Boronin and the Kadri. NAFO members are also looking forward to further information on your High Seas Fishing Act and your intentions regarding involvement in the International MCS Network.

Sincerely,
President of NAFO

Annex 4. Letter to the Dominican Republic

Address (appropriate interlocutor, Dominican Republic Foreign Ministry and registry office)

Dear:

I am writing to you at the request of the Contracting Parties to the Northwest Atlantic Fisheries Organization (NAFO) following their annual meeting (15-19 September 2003). During the meeting, Contracting Parties examined information on activities of vessels flagged to the Dominican Republic in the NAFO Regulatory Area. Information on these vessels was provided to you by a letter from the NAFO Executive Secretary dated 27 August 2003 (GF/03-404).

The vessels sighted engaged in fishing activity are the Seal, Oyra, Okhatino, Ostrovets, Olchan and Ostroe. Of these vessels, all but the Seal were sighted engaged in fishing activities in the NAFO Regulatory Area under the flag of Belize in 2002. At its 2002 annual meeting, NAFO members had expressed concern that the activities of these vessels were undermining the conservation and management measures of the Organization and requested Belize to take appropriate action. Belizean authorities investigated and subsequently deregistered the vessels. NAFO members are now greatly concerned that the vessels are continuing their fishing activities in the NAFO Regulatory Area under the flag of the Dominican Republic. This is an incidence of "flag-hopping", the repeated and rapid change of a vessel's flag for the purposes of circumventing conservation and management measures. The international community has noted the serious detrimental impact that flag-hopping has on fisheries conservation and has committed, inter alia in the FAO International Plan of Action on Illegal, Unreported and Unregulated (IUU) Fishing, to take all practicable steps to prevent it.

In addition, the international community has recognized that global cooperation is needed to prevent, deter and eliminate IUU fishing and has committed that states not party to regional fisheries management organizations are not discharged from their obligation to cooperate with those organizations. To discharge this obligation to cooperate, states have agreed to apply the conservation and management measures adopted by the organization or adopt measures consistent with those conservation and management measures and should in any case ensure that vessels entitled to fly their flag do not undermine such measures.

Integral to these undertakings is the need for flag states to be responsible towards their vessels and to ensure that appropriate enforcement action is taken against vessels that do undermine conservation and management measures adopted by regional fisheries management organizations. While this may mean deregistration of vessels, it is vital that other appropriate measures on the vessels' activity be considered. These include prosecution, withdrawal of licences to fish and sanctions that are adequate in severity to be effective in securing compliance, discouraging violations and depriving offenders of the benefits accruing from those activities.

There are tools available to assist flag states in pursuing the global approach needed to be a responsible flag state. For example, in doing the checks necessary to ensure that a flag state is not registering a vessel previously registered elsewhere and found to be engaged in IUU fishing, the International Network for the Cooperation and Coordination of Fisheries-Related Monitoring, Control and Surveillance Activities (International MCS Network) can be helpful. NAFO members would encourage the Dominican Republic to become a member of the International MCS Network and designate a contact for it. You can find information on the International MCS Network in the FAO Technical Guidelines on the Implementation of the IPOA on IUU (pages 17-20 and Appendix II) and online at <http://www.imesnet.org>.

With the foregoing in mind, NAFO members would urge the Dominican Republic to take all appropriate steps to halt the undermining of NAFO conservation and management measures by these vessels. All of NAFO's Conservation and Enforcement Measures as well as additional information about the Organization may be found on the NAFO's web site at: <http://www.nafo.int>.

NAFO's Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO was sent to you by the Executive Secretary under cover of her letter of 27 August. You should be aware that given the recent increase in fishing activities that undermine NAFO conservation and management measures, NAFO is considering the adoption of more stringent measures to deal with IUU fishing.

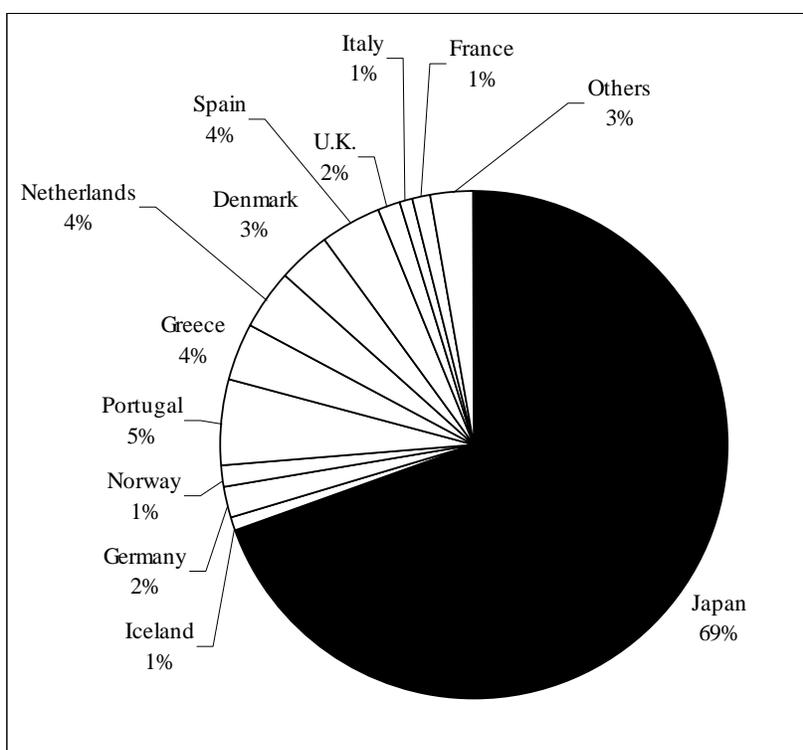
I thank you in advance for your earliest possible attention to these matters and look forward to your prompt reply on any information you have with regard to the activities of the vessels mentioned above as well as any appropriate actions taken vis à vis these vessels. NAFO members also look forward to learning of your intentions with regard to the International MCS Network.

Sincerely,

President of NAFO

Annex 5. Presentation by Japan on Import Statistics

Imports of Redfish (Frozen products)	t (Quantity of Products)		
	1998	1999	2000
Japan	45,791	45,955	47,837
Iceland	1,374	809	501
Germany	1,916	1,843	1,320
Norway	792	910	909
Portugal	4,654	4,110	3,832
Greece	2,979	2,667	2,475
Netherlands	2,232	3,828	2,774
Denmark	1,309	2,487	2,156
Spain	573	1,268	2,665
U.K.	899	968	1,090
Italy	678	728	583
France	614	601	790
Others	1,337	1,340	1,816
Total	65,148	67,514	68,748

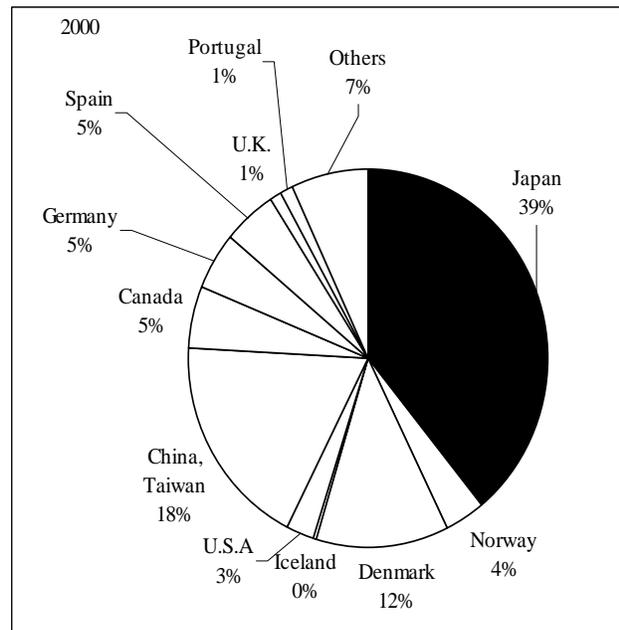


Source: FAO Fishery Statistics 2000

Imports of Greenland halibut(Frozen products) t (Quantity of Products)

	1998	1999	2000
Japan	17,512	27,395	32,125
Norway	1,571	2,743	2,969
Denmark	9,147	9,785	9,934
Iceland	1,127	843	211
U.S.A	2,787	3,555	2,120
China, Taiwan	13,418	15,616	14,922
Canada	3,884	4,001	4,396
Germany	5,074	3,620	4,154
Spain	2,318	5,825	3,779
U.K.	1,635	1,217	935
Portugal	1,003	548	867
Others	3,175	5,411	5,800
Total	62,651	80,559	82,212

Source: FAO Fishery Statistics 2000



Japanese imports of Halibut

	(Unit:t)	
	2001	2002
Russia	11,968	9,435
Iceland	4,986	7,820
Canada	1,605	3,601
Norway	2,863	2,631
Spain	826	2,333
China	426	1,461
U.S.	2,833	1,427
Greenland	1,395	1,396
Portugal	190	828
Denmark	331	667
Germany	511	623
Canary Islands	-	355
R.Korea	20	115
Estonia	32	105
Lithuania	165	98
Folk land	9	34
Georgia	-	23
Latvia	152	22
P.R.Korea	-	10
Vietnam	-	1
Iceland	134	-
Greece	75	-
Thailand	37	-
Netherlands	20	-
Belgium	2	-
Total	28,580	32,985

Source: Trade Statistics by Ministry of Finance of Japan

Annex 6. Revised EU Proposal

SCHEME TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY VESSELS WITH RECOMMENDATIONS ESTABLISHED BY NAFO

(These amendments are intended to replace Chapter VI of the CEM Overhaul, pending the final adoption of that document. Numbering of articles in this section would thus need to be corrected.)

Article 1

Scope and Objectives

1. The measures contained in this Scheme are applicable to non-Contracting Party vessels engaged in fishing activities in the Regulatory Area of NAFO.
2. The purpose of the Scheme is to ensure the effectiveness of the Conservation and Enforcement measures established by the Organisation.

Article 2

Definitions

(These definitions would be inserted in Article 2 of the CEM Overhaul, where those of 'Fishing activities' and 'Inspectors' are already included, pending final adoption of the Overhaul.)

1. "non-Contracting Party vessel" means any vessel not flagged in a Contracting Party of NAFO, including vessels for which there are reasonable grounds for suspecting them to be without nationality.
2. "Fishing activities" means fishing, fish processing operations, the transshipment of fish or fish products and any other activity in preparation for or related to fishing in the Regulatory Area.
3. "Inspector" means an inspector of the fishery control services of the Contracting Parties assigned to the Scheme of Joint International Inspection and Surveillance.
4. "IUU" means activities as defined in paragraph 3 of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing.

Article 3

Sightings of non Contracting Party vessels

1. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Regulatory Area [or which has been denied port access, landing or transshipment pursuant to Article 6] is presumed to be undermining the effectiveness of Conservation and Enforcement Measures. In the case of any transshipment activities involving a sighted non-Contracting Party vessel, inside or outside the Regulatory Area, the presumption of undermining Conservation and Enforcement Measures applies to any other non-Contracting Party vessel which has engaged in such activities with that vessel.
2. Information regarding such sightings or denials of port access, landings or transshipments shall be immediately transmitted to the Secretariat. For sightings, the Surveillance Report provided in Annex XII shall be used. The Secretariat shall then transmit this information to all Contracting Parties and other relevant Regional Fisheries Management Organisations within one business day of receiving this information, and to the Flag State as soon as possible.
3. The Contracting Party shall attempt to inform the vessel that it has been sighted engaging in fishing activities, or that it is being denied port access, landing or transshipment, and is accordingly presumed to be undermining the Conservation and Enforcement Measures, and that this information will be distributed to all Contracting Parties, other Regional Fisheries Organisations and to the Flag State of the vessel.

Article 4

Inspections at sea

1. NAFO inspectors shall if appropriate request permission to board non-Contracting Party vessels sighted as being engaged in fishing activities in the Regulatory Area. If the vessel consents to be boarded the inspectors' findings shall be transmitted to the Secretariat without delay. The Secretariat shall transmit this information to all Contracting Parties and other relevant Regional Fisheries Management Organisations within one business

day of receiving this information, and to the Flag State as soon as possible. The non-Contracting Party vessel which is boarded shall be provided with a copy of the findings of the NAFO inspectors.

2. Where evidence so warrants, a Contracting Party may take such action as may be appropriate in accordance with international law. Contracting Parties are encouraged to examine the appropriateness of domestic measures to exercise jurisdiction over such vessels.

Article 5

Inspections in port

1. When a non-Contracting Party vessel referred to in Article 3(1) enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of the Conservation and Enforcement Measures (and this Scheme), and shall not be allowed to land or tranship any fish until this inspection has taken place. Such inspections shall include the vessel's documents, log books, fishing gear, catch onboard and any other matter relating to the vessel's activities in the Regulatory Area.
2. Information on the results of all inspections of non-Contracting Party vessels conducted in the ports of Contracting Parties, and any subsequent action, shall immediately be transmitted to all Contracting Parties and other relevant Regional Fisheries Management Organisations through the NAFO Secretariat, and as soon as possible to the relevant Flag State(s).
3. Nothing in this Scheme shall affect the exercise by Contracting Parties of their sovereignty over the ports in their territory in accordance with international law.

Article 6

Landings, transhipments and joint fishing operations

1. Contracting Parties shall ensure that their vessels do not receive transhipments of fish from a non-Contracting Party vessel [referred to in Article 3] or engage in joint fishing operations with such vessels.
- [2. Landings and transhipments of all fish from a non-Contracting Party vessel to which this Scheme applies shall be prohibited in all Contracting Party ports if the vessel has on board any species listed in Annex XIX, unless:
 - (i) The vessel establishes that the fish were caught outside the Regulatory Area; or
 - (ii) The vessel establishes that it has applied all relevant Conservation and Enforcement Measures, in particular Part IV.]

Article 7

Notification of presumed IUU activities

1. When transmitting the information received in accordance with Articles 3 to 5 to the Flag State concerned, the Secretariat shall, in consultation with the chairman of the General Council, request that it take measures in accordance with its applicable legislation to ensure that the vessel or vessels in question desist from any activities that undermine the effectiveness of Conservation and Enforcement Measures, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels.
2. The Secretariat shall request the Flag State(s) to report back to NAFO on the results of enquiries and/or on the measures it has taken in respect of the vessel or vessels concerned. The Secretariat shall also provide the Flag State with a copy of this Scheme, advise of the dates when STACFAC will be considering the composition of the IUU List and encourage the Flag State to communicate any relevant information to the Secretariat in an expeditious manner. The Secretariat shall promptly distribute any information received to all Contracting Parties.

Article 8
Reports on IUU activities

1. Each Contracting Party shall report to the Executive Secretary by 1 March each year for the previous calendar year:
 - a) the number of inspections of non-Contracting Party vessels it conducted under this Scheme at sea or in its ports, the names of the vessels inspected and their respective Flag State, the dates and as appropriate, the ports where the inspection was conducted, and the results of such inspections; and
 - b) where fish are landed or transhipped following an inspection pursuant to this Scheme, the report shall also include the evidence presented pursuant to Article 6(2).
2. In addition to sighting reports and information on sea or port inspections, Contracting Parties may at any time submit to the Secretariat any further information, which might be relevant for the identification of non-Contracting Party vessels that might be carrying out IUU fishing activities in the Regulatory Area.
3. The Executive Secretary shall prepare a report by 1 April each year, for the period corresponding to the previous calendar year, based on the reports and information received from the Contracting Parties as called for in this Scheme.

Article 9
IUU vessel lists

1. The Secretariat shall place on a provisional list of IUU vessels (hereinafter referred to as ‘the Provisional List’) the non-Contracting Party vessel or vessels identified as being engaged in fishing activities in the Regulatory Area, according to information received pursuant to Articles 3 to 5 and the reports mentioned in Article 8.
2. The Secretariat shall advise relevant non-Contracting Parties of the vessels flying their flag that have been included in the Provisional list. The Secretariat shall also place the Provisional List on a secure section of the NAFO website.
3. On the basis of the reports drawn up pursuant to Article 8(3), the information received from Flag States pursuant to Article 7(2), as well as any other relevant information submitted by Contracting Parties or Flag States which might be relevant for the identification of non-Contracting Party vessels that might be carrying out IUU fishing activities in the Regulatory Area, the Standing Committee on Fishing Activities of non-Contracting Parties in the NAFO Regulatory Area (STACFAC) shall consider the Provisional List and as appropriate recommend to the General Council that the vessels be removed thereof, or otherwise transferred to a confirmed IUU list (hereinafter referred to as ‘the IUU List’).
4. At the same time STACFAC shall undertake a review of the current IUU List and as appropriate recommend to the General Council that vessels are maintained therein or removed. STACFAC shall only recommend that the General Council remove a vessel from either the Provisional or IUU list if the Flag State of the vessel concerned satisfies the General Council that:
 - a) it has taken effective action in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity, or
 - b) it has taken measures to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing, or
 - c) the vessel has changed ownership and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing, or
 - d) the vessel did not take part in IUU fishing activities.
5. The Secretariat shall [place the IUU list on a secure section of the NAFO website. This list shall include the following information]

Article 10
Follow-up action

1. Contracting Parties shall take all the necessary measures, under their applicable legislation, in order that:
 - a) vessels appearing on the IUU list are not authorised to land or tranship in their ports or waters under their jurisdiction, but are inspected in accordance with the provisions of Article 5;
 - b) fishing vessels, including support vessels, refuel vessels, the mother-ships and cargo vessels flying their flag do not in any way assist, or participate in any transshipment or joint fishing activities with, vessels appearing on the IUU list.
 - c) the issuing of licences to vessels appearing on the IUU list to fish in waters under their fisheries jurisdiction is prohibited;
 - d) the chartering of vessels appearing on the IUU list is prohibited;
 - e) the granting of their flag to vessels appearing on the IUU list is refused;
 - f) importers, transporters and other sectors concerned are encouraged to refrain from negotiating with and from transshipping fish caught by vessels appearing on the IUU list;
 - g) appropriate information regarding vessels appearing on the IUU list is collected and exchanged with other Contracting Parties or non-Contracting Parties with the aim of detecting, controlling and preventing false import/export certificates regarding fish from such vessels.
- [2. Notwithstanding the provisions of Article 6, paragraph 2, the General Council will recommend appropriate measures and, if necessary, trade restrictive measures to prevent vessels of non-Contracting Parties appearing on the IUU list from continuing the fishing activities in the Convention Area. Any trade measures under this paragraph will be import restrictions on the catch from these vessels and consistent with each Party's international obligations. The trade measures will be of such duration and under such conditions as the General Council may determine.]

Article 11
Action vis-à-vis Flag States

1. Contracting Parties shall jointly and/or individually request non-Contracting Parties whose vessels appear on the IUU list to co-operate fully with the Organisation in order to avoid undermining the effectiveness of the Conservation and Enforcement Measures adopted pursuant to the Convention.
2. The General Council shall review, at subsequent annual meetings as appropriate, actions taken by such non-Contracting Parties and identify those which have not rectified their fishing activities.
- [3. The General Council shall decide appropriate measures to be taken in respect of non-Contracting Parties identified under paragraph 2. In this respect, Contracting Parties may co-operate to adopt appropriate multilaterally agreed trade related measures, consistent with the World Trade Organisation (WTO) that may be necessary to prevent, deter, and eliminate the IUU fishing activities identified by the General Council. Multilateral trade measures may be used to support co-operative efforts to ensure that trade of fishing products from the Regulatory Area does not in any way encourage IUU fishing or otherwise undermine the effectiveness of NAFO Conservation and Enforcement Measures which are consistent with the United Nations convention on the Law of the Sea 1982.]