

PART I

Report of the General Council Meeting (GC Doc. 05/4)

27th Annual Meeting, September 19-23, 2005 **Tallinn, Estonia**

I. Opening of the Meeting (items 1-7 of the Agenda)

1. Opening by Chair

The Meeting was opened by the Chair of the General Council, David Bevan (Canada).

The Representatives of eleven (11) Contracting Parties were present: Canada, Denmark (in respect of the Faroe Islands and Greenland-DFG), the European Union, France (in respect of St. Pierre et Miquelon), Iceland, Japan, Republic of Korea, Norway, Russia, Ukraine and the United States of America (Annex 1). Bulgaria and Cuba were unable to attend.

The Chair welcomed delegates to the 27th annual meeting of NAFO (Annex 2). He noted that NAFO faces significant challenges and that the organization had never before been submitted to so much scrutiny. During this meeting NAFO would consider an ecosystem-based approach to fisheries management. In addition, the call for evaluation of fisheries bodies would require that NAFO takes a look into its own operations.

The Heads of Delegations from Canada, European Union, Republic of Korea, United States of America, Denmark (in respect of the Faroe Islands and Greenland-DFG), Russia, Ukraine, Japan, Iceland, and France (in respect of St. Pierre et Miquelon) addressed their opening statements to the assembly (Annexes 3-11).

2. Appointment of Rapporteur

The Executive Secretary of NAFO, Johanne Fischer, was appointed as Rapporteur whose duties included maintaining a record of decisions agreed upon by the General Council (Annex 12).

3. Adoption of Agenda

The adopted Agenda is attached in Annex 13.

4. Admission of Observers

The Executive Secretary reported that invitations has been transmitted to the Food and Agriculture Organization of the United Nations (FAO), International Commission for the Conservation of Atlantic Tunas (ICCAT), International Council for the Exploration of the Sea (ICES), North Atlantic Marine Mammal Commission (NAMMCO), North Atlantic Salmon Conservation Organization (NASCO), North East Atlantic Fisheries Commission (NEAFC) and North Pacific Anadromous Fish Commission (NPAFC). In response to these invitations, FAO was represented by Mr. Hiromoto Watanabe (Fishery Liaison Officer, Fishery Policy and Planning Division), ICCAT by Mr. Driss Meski (Executive Secretary), and NAMMCO by Ms. Gudridur Kristjansdottir (Icelandic Delegate). No applications of NGO's have been received at the NAFO Secretariat pursuant to Rule 9 of the Rules of Procedure.

The representatives of FAO, ICCAT, and NAMMCO delivered a statement to the General Council (Annex 14 and 15).

5. Publicity

Participants agreed that no statements should be made to the media until after the conclusion of the meeting, when the NAFO Secretariat would issue a Press Release (Annex 16). The NAFO Media Policy adopted last year (GC Doc 04/4) foresees that the opening and closing sessions of NAFO bodies are public as well as

additional sessions designated by participants at the meeting. For this meeting participants agreed that the joint FC/GC/SC Ecosystem Approach Session be open for media attendance.

6. Guidance to STACFAD necessary for them to complete their work

No items were deferred to STACFAD apart from the “Administrative Report” under agenda item 13.

7. Guidance to STACFAC necessary for them to complete their work

Canada suggested that STACFAC discuss NCP vessels that were recently sighted in the NRA.

II. New Initiatives (items 8 – 11)

8. FC/GC/SC Joint Session (chaired by FC): Discussion of the Ecosystem Approach to Fisheries Management

Dr. Gabriella Bianchi from FAO introduced the concept of the Ecosystem Approach to Fisheries Management (EAF). The PowerPoint presentation was well received and many delegates thanked Dr. Bianchi for her excellent presentation. It was pointed out that ecosystem considerations also play a role in the proposals discussed under agenda items 10 and 11 in this Session. Further information on the discussion of the EAF can be found in the Fisheries Commission Report under agenda item 8.

9. Report by Canada on the St. John’s Conference on the Governance of High Seas Fisheries and the UN Fish Agreement – Moving from Words to Action

Canada introduced this item. The St. John’s Conference (1-5 May 2005; http://www.dfo-mpo.gc.ca/fgc-cgp/conf_report_e.htm) called for actions to change the governance regimes for high seas fisheries. A Round Table of 19 invited Ministers culminated in the release of a Ministerial Declaration (Annex 17) that urged all States to ratify international agreements, such as the United Nations Fish Agreement, and to modernize the regional organizations used to manage high seas fisheries. Specifically, it urged these organizations to provide a mechanism to address disputes, improve decision-making, use the precautionary and ecosystem approach, and strengthen the monitoring, control and surveillance mechanisms. Contracting Parties thanked Canada for the initiative it took organizing this conference. It was remarked that many regional fisheries organizations often are different with regards to their regimes and their approaches but that it would be desirable that Parties should strive for coherency in their position taken in the organizations in which they are members. It was also mentioned that the St. John’s Conference had provided a good context for the 2005 North Atlantic Fisheries Ministers' Conference.

10. The NAFO Convention in the context of recent developments concerning ocean governance

Norway introduced GC Working Paper 05/1 (Annex 18) suggesting that NAFO should examine its Convention to determine whether there is a need for change in view of new conservation approaches and the ongoing modernization of RFMOs. Norway compared NAFO’s Convention with that of a number of other fishery bodies (CCAMLR, SEAFO, SIOFA and NEAFC) that could serve as references for an evaluation of the NAFO Convention. In conclusion, Norway believed that an amendment to the NAFO Convention might be desirable to take into account the new developments. Contracting Parties commended Norway for this interesting comparative approach. It was noted that this agenda item was linked with the other agenda items under section II which all related to the interest of a reform of NAFO.

11. Modernization of RFMOs – Proposal for NAFO

Canada introduced GC Working Paper 05/5 (Annex 19) that outlines proposed changes to the governance of NAFO inspired by the Ministerial Declaration of the St. John’s Conference. These include changes to the decision-making process including dispute settlement procedures, implementation of the Precautionary and Ecosystem approaches, capacity management, and strengthening Monitoring, Control and Surveillance (MCS) systems to address Illegal, Unregulated and Unreported (IUU) fishing.

In the subsequent debate, Parties expressed support for the initiative to reform NAFO. Issues referred to in this context for discussion included the need to strengthen the decision-making process, developing a more

integrated oceans management policy, developing dispute settlement procedures, streamline the structure of the organization, enhanced sharing of benefits, responsibilities as well as various issues relating to management of stocks and control, enforcement and follow up to violations.

The EU and Canada subsequently tabled a joint proposal on NAFO Reform.

This proposal was adopted (Annex 17).

III. Supervision and Coordination of Organizational, Administrative and Other Internal Affairs (items 12-17)

12. Review of Membership

Thirteen (13) Contracting Parties are currently members of the General Council and Scientific Council. Twelve contracting Parties are also members of the Fisheries Commission (those members participating in the fishery in the NAFO Regulatory Area). Bulgaria did not participate in any NAFO fishery and is therefore not a member of the Fisheries Commission.

13. Administrative Report

Discussion of the Administrative Report was referred to STACFAD. At the closing session, on the advice of the Chair of STACFAD, the Report was adopted by the General Council.

14. Enhancement of Public Relations

The Executive Secretary introduced the newly designed public NAFO WebPages, pointing out that they represent an important tool for public relations and asked participants to provide feedback.

15. NAFO Journal

The Executive Secretary announced that the NAFO Journal website is accessible at <http://journal.nafo.int> and invited NAFO Members to view the Journal and give feedback to the Secretariat.

16. Consideration of the Renewal of the Executive Secretary

It was decided that the contract of the present Executive Secretary will be extended for another term of four years starting 2007. Negotiations regarding the new contract will take place over the next year.

17. Consideration of Staff Rule 4.1 – Maximum Renewal of Terms of the Executive Secretary

This matter was deferred to the 2006 Annual Meeting.

IV. Coordination of External Affairs

18. Report of Executive Secretary on miscellaneous meetings of: FIRMS, CWP, COFI, RFB, and NARFMO (North Atlantic Regional Fisheries Management Organizations)

The Executive Secretary briefly reported on these meetings pointing out some of the highlights. The full meeting reports are accessible through the NAFO WebPages (*link*).

- **FIRMS** (Fishery Resources Monitoring System) **Steering Committee Meeting.** To date, FIRMS still only exists in a draft version that is being finalized with input from all partners by FAO. Technical details of the version presented to the meeting as well as a draft FIRMS website were discussed.
- **Coordinating Working Party on Fishery Statistics.** CWP reviewed the recommendations from the FAO Expert Consultation on Data Formats and Procedures for Monitoring, Control and Surveillance including their suggestion to adopt the North Atlantic Format (NAF) for developing international standards for VMS position and catch reporting. In response, CWP established a working group coordinated by NAFO to propose possible amendments to the present NAF that would ensure its usefulness for assessment and scientific purposes. Hans Lassen was elected as chairperson and Johanne Fischer as vice-chairperson for the next session.

Immediately prior to the CWP Meeting a 2-day **Workshop on The Role of Regional Fishery Bodies in the Implementation of the FAO Strategy for Improving Information on Status and Trends of Capture Fisheries** (RFB–STF Workshop) took place resulting in a number of recommendations to promote the STF-Strategy including transparent and complete national data collection of fisheries

- **Committee on Fisheries (COFI).** The Committee reviewed issues of an international character and the programme of work of the FAO Fisheries Department in fisheries and aquaculture. Topics of interest to NAFO included the ecosystem approach to fisheries, the International MCS Network, deepwater demersal fisheries (with recognition of the need to improve data collection on deep sea fish), and a review of the performance of RFMOs in meeting their objectives and the obligations and principles set forth in relevant international instruments.
- **Regional Fishery Bodies Meeting.** The meeting agreed to change its name to “RFB Secretariats Network” to better reflect its informal scope and nature. Subject matters discussed included the role of regional fishery bodies, external factors affecting fisheries management, harmonization of catch documentation, relations between RFBs and the United Nations Environment Programme (UNEP), the status of FIRMS, the MCS Network, a Vessel Detection System (VDS), and the ecosystem approach to fisheries management (EAF). The meeting also discussed the importance that RFBs raise their profiles in terms of education or information dissemination. Regarding IUU Fishing, the Meeting agreed that the Rome Ministerial Declaration on IUU Fishing should be brought to the attention of all RFBs’ members (<http://www.fao.org/docrep/meeting/009/j5030e.htm>).
- **Secretariats of the North Atlantic Regional Fisheries Management Organizations (NARFMOs).** The group met for about 2 hours and briefly exchanged views on a number of issues including practical cooperation on IUU fishing, usefulness of VMS, status of EAF in NARFMOs, cooperation with ICES, the recently adopted dispute settlement procedures by NEAFC, and the new NAFO media policy.

V. Fishing Activities in the Regulatory Area Adverse to the Objectives of the NAFO Convention (items 19-21)

19. Consideration of Non-Contracting Party activity in the NAFO Regulatory Area and agreement on the task of STACFAC at the current meeting.

This issue was dealt with under agenda item 7.

20. Report of STACFAC at the Annual Meeting and decisions on actions

The Chair of STACFAC, Nadia Bouffard (Canada), presented the report at the Annual Meeting. With regard to NCP vessels in the Regulatory Area, she noted that as a result of NAFO demarches seven vessels previously sighted in the NAFO RA were deflagged by Dominica. She also reported that STACFAC is now compiling NCP-IUU activities in a tabular format and the information will be automatically shared with other regional fishery bodies and FAO. STACFAC also continued the discussion on the proposal for a new Scheme to Promote Compliance by Non-Contracting Party Vessels. STACFAC recommended that:

- a letter signed by the President of NAFO with a table listing information on NCP vessels sighted in the NRA be provided to RFMOs on an annual basis as appropriate;
- a letter signed by the President of NAFO be provided to RFMOs with the table listing information on the seven NCP vessels sighted in 2005 in the NRA;
- a letter signed by the President of NAFO be sent to Dominica enquiring about steps taken before deregistration;
- the General Council review bracketed text in Articles 7.2(d), 10 (3) and 11 on the proposal for a new NCP Scheme;
- Norway’s proposal on a joint scheme between NAFO and NEAFC be moved up on the agenda next year.

Delegates adopted all recommendations by STACFAC.

Regarding modification of the Scheme to Promote Compliance by Non-Contracting Party Vessels, the EU proposed to adopt those measures on which the group could agree, including an IUU list and to discuss issues related to trade sanctions at future meetings. Other Contracting Parties agreed and STACFAC WP 05/4 (rev.) was adopted (Annex 20).

21. Dispute Settlement Procedures

The General Council Chair invited views of CPs on how best to continue the work on the Dispute Settlement Procedures. The EU proposed to include this subject matter in the discussions of the Working Group for the modernization of NAFO. This was accepted by other Contracting Parties.

VI. Finance (items 22-23)

22. Report of STACFAD at the Annual Meeting

The Chair of STACFAD, Fred Kingston (EU), went briefly through the recommendations of this Committee to the General Council:

- STACFAD recommended that the 2004 Auditor's Report be adopted.
- STACFAD recommended that Contracting Parties take immediate action to meet their financial obligations and bring financial stability to the Organization.
- STACFAD recommended that outstanding contribution from Bulgaria (\$31,175.31) be deemed uncollectible and that this amount be applied against the accumulated surplus.
- STACFAD recommended that the minimum balance in the Accumulated Surplus Account remain at \$125,000. STACFAD also recommended that the Secretariat bill Contracting Parties in two instalments to encourage part of the contributions to be paid earlier and thus enable the Secretariat to have sufficient cash flow to operate in early 2006.
- STACFAD recommended that the proposal for new salary categories as identified in STACFAD Working Paper 05/9 be approved along with budget provisions for employment insurance and overtime.
- STACFAD recommended the adoption of STACFAD WP 05/1 Revised.
- STACFAD recommended that General Council appoint the three nominees for the Staff Committee (Judy Dwyer, Fred Kingston, Joanne Morgan).
- STACFAD recommended that General Council adopt the specific goals drafted by STACFAD for evaluating the eligibility of the Executive Secretary for a performance bonus in 2006.
- STACFAD recommended that (a) Contracting Parties be urged to submit their reports in English; (b) that the electronic form be developed quickly; and (c) that the Secretariat receive the necessary funds to translate and digitize the current and past fishery reports submitted by Contracting Parties.
- STACFAD endorsed that the Secretariat pursue a re-tendering of the VMS service provider with the understanding that the technical specifications given in the call for tender are adequate for the NAFO VMS database.
- STACFAD recommended that the budget for 2006 of \$ 1,519,000 be adopted.
- The dates for the 2007-2008 Annual Meeting be as follows with the location in Halifax, unless an invitation to host is extended by a Contracting Party and accepted by the Organization:

2007	Scientific Council	-	24 September – 3 October
	General Council	-	24-28 September
	Fisheries Commission	-	24-28 September
2008	Scientific Council	-	22-26 September
	General Council	-	22-26 September
	Fisheries Commission	-	22-26 September

23. Adoption of Budget and STACFAD Recommendations for 2006

Several Delegates expressed deep concern about missing or delayed contributions to the Organization. The USA explained that it has to set priorities regarding its international obligations and that unfortunately, in view of the inability of the USA to achieve an adequate share of fishing opportunities in the NAFO fisheries, NAFO has to take a back seat when USA funds for international commitments are allocated. The Representative of Korea stated that their outstanding contributions would be paid as early as possible and also reiterated their concern regarding the level of contributions versus quota allocated to Korea.

The proposed budget for 2006 was accepted.

All other recommendations of STACFAD were adopted without further discussion.

VII. Closing Procedures (items 24-28)**24. Election of Chair and Vice-Chair**

The present Chair, David Bevan (Canada), and Vice-Chair (Terje Lobach) were re-elected for another term of two years.

25. Time and Place of the Next Annual Meeting

The 28th Annual Meeting will be held in Halifax, Nova Scotia, Canada, at the following dates:

Scientific Council	-	13-22 September 2006
General Council	-	18-22 September 2006
Fisheries Commission	-	18-22 September 2006

26. Other Business

The Secretariat asked Contracting Parties to consider a request by the High Seas Task Force to submit vessel information. Several Contracting Parties expressed concern to release information that is confidential. It was agreed that the Secretariat seek consent by individual Contracting Parties to submit their vessel information to the HSTF.

27. Press Release

The Executive Secretary drafted a Press Release that reflects the changes by the NAFO President and interested Contracting Parties (Annex 16).

28. Adjournment

The meeting adjourned at 11:00, September 23, 2005.

Annex 1. List of Participants

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**Annex 2. Opening Statement by the Chair of General Council,
David Bevan (Canada)**

Distinguished delegates, ladies and gentlemen,

It is an honour and a pleasure for me to serve as your Chair at this year's NAFO annual meeting.

We have been delighted in our exploration of some of the older parts of the historic city of Tallinn. I hope all delegates will take the opportunity during this week to take in the sights and experience the wonderful hospitality.

I wish to thank the Estonian authorities for the excellent arrangements in hosting this meeting.

As we begin today, I want to reflect on the importance of the work that this Organization undertakes.

The last quarter century has presented significant challenges to NAFO. We have had difficult times – in particular, dealing with collapsing groundfish stocks and the harsh reality of continuing moratoria.

Despite the moratoria we have established, many stocks continue to be at historically low levels. Progress to stock rebuilding has been fragile at best. Achieving stock recovery depends on political will, the actions taken at NAFO to adopt the right conservation measures, and ensuring that these measures are implemented and adhered to by fishermen.

NAFO has always recognized the need to invest in improved conservation, the need for strong science, and a focus on stock rebuilding. We have made some progress over the years and we can all take credit for what has been done.

NAFO has also recognized that there are larger threats to fish stocks in terms of the need to protect ocean habitat and deep-sea biodiversity. NAFO's agreement to address the Ecosystem Approach to Fisheries Management in a joint FC/GC/SC session at this meeting reflects the seriousness and urgency with which this matter is seen.

How we manage human activities that impact particularly sensitive benthic areas such as seamounts and cold-water corals will be reflected in the sustainability of fish stocks depending on these unique and vulnerable habitats.

The FAO has told us that over 70% of the world's fish stocks are fully or over exploited. World demand for protein, overcapacity in the fishing industry and economic forces are exerting substantial pressures on many fragile ecosystems. As fisheries managers, we have a responsibility to work on the better use of marine resources. The Grand Banks and the Flemish Cap are a very important and rich marine ecosystem that we have to use in a measured way.

Momentum has been building in the international community for the need to modernize regional organizations that manage fisheries on the high seas. As participants to the debates, we will have heard the political desire expressed by many politicians in members of NAFO at the last FAO meeting, at the St. John's Conference and the North Atlantic Fisheries Ministers Conference, expressing the need for change and action. NAFO is the first of such organizations to meet after this mandate has been given. The eyes of our leaders and the public are on us and expect us to act.

To maintain our credibility as a world leading organization, NAFO needs to review and renew itself.

As all regional fisheries management organizations, NAFO will need to strengthen its management and governance structure to manage the ocean resources of the NAFO Regulatory Area in a sustainable and profitable way. I am confident that NAFO will demonstrate to the international community its continued relevance in undertaking these responsibilities.

NAFO members will need to continue their close cooperation and collaboration to achieve our shared objectives of stock recovery, conservation and sustainable development for present and future generations. They are imperative given the interdependent reality of our world.

I am hopeful that NAFO will respond to and meet these significant challenges.

I would also like to thank the Executive Secretary and NAFO Secretariat for their professionalism in undertaking the arrangements for this meeting.

Before closing, I wish to advise you that in the interests of having a more effective meeting with greater transparency of decision-making, the Chairs of the NAFO bodies will seek to adhere to a more rigorous schedule this week. We will aim to avoid a late night session on Thursday evening. The cooperation of all NAFO bodies and delegates will help to achieve this goal.

Thank you. I would now like to open the floor for opening statements.

Annex 3. Opening Statement by the Representative of Canada (Guy Beaupré)

Mr. Chairman, distinguished Representatives, Ladies and Gentlemen,

It is a pleasure for Canada to participate at this twenty-seventh annual meeting of NAFO in Tallinn and I wish to thank the Estonian authorities for hosting it.

Mr. Chairman, last May, Canada hosted an international conference in St. John's, Newfoundland and Labrador. The conference brought many fishing nations together to discuss international fisheries and oceans governance and to identify steps to better protect fish stocks. The Conference ended with a clear expression of a shared commitment to take action in this important area.

Nineteen Ministers adopted a Declaration which sets out a strategic direction and provides a meaningful framework for renewing and modernizing fisheries governance regimes – and in particular within Regional Fisheries Management Organizations.

Ministers of seven NAFO parties (Canada, EU, U.S., Japan, Iceland, Norway and Faroe Islands) have agreed to move forward in tangible ways on modernizing RFMOs and they will be expecting results from us. This meeting is a timely opportunity to engage on a process of reform.

Mr. Chairman, NAFO has a duty and responsibility to ensure the sustainability of resources and, therefore, must also have the necessary instruments to fulfil its mandate.

Notwithstanding the many improvements in NAFO over the years, it must be recognized that NAFO pre-dates many of the important instruments that have been developed over the past decade to improve international fisheries governance, including the United Nations Fish Stocks Agreement. To bring this organization into the 21st Century, we need to implement these instruments within NAFO governance.

We need to move forward now on incorporating the precautionary approach, ecosystem management, improved decision-making, and improved monitoring, controls, and surveillance systems.

Canada has submitted a discussion paper which provides a rationale for reviewing and strengthening the organization, outlines possible directions for reform and suggests means to launch the process.

We look forward to General Council's discussions on this issue.

Mr. Chairman, a key element of this meeting will be to discuss the ongoing threats to specific fish stocks and their ecosystems and how to remedy their continuing decline.

As we will hear later, 2004 saw a major setback in recovery of the Greenland Halibut stocks. Catches in 2004 were 27% higher than the TAC of 20,000t. The stock was at its lowest observed biomass level and was fished at unsustainable levels. If this continues, the rebuilding plan is unachievable.

NAFO cannot be seen as presiding over the demise of one of the last remaining major groundfish stocks under its jurisdiction.

We all know that the biological limits of the world's oceans are being strained under an unprecedented combination of human activities and environmental changes.

Flag States must hold their fishing industries accountable to the decisions we make as an organization. Only by doing so will fish stocks rebuild to levels that provide sustainable fisheries for all Contracting Parties.

Overcapacity is an issue in fisheries all over the world and NAFO is no exception. Overcapacity is directly linked to access and allocation. It is a challenge for all countries but we cannot continue to look to the resource or access to another country's allocations to solve this overcapacity problem.

What we need at this time is agreement on how to move forward on strengthening NAFO from various perspectives, in order to achieve our common objective.

Canada, Mr. Chairman, as well as other NAFO countries, expect strong action to protect and rebuild stocks.

We look forward to working with all of you in this regard.

Thank you.

Annex 4. Opening Statement by the Representative of the European Union
(John Spencer)

Distinguished Delegates, Ladies and Gentlemen

It is a great pleasure for me and my delegation to welcome you all to the beautiful city of Tallinn for the 2005 Annual Meeting of NAFO. We are particularly grateful to the Estonian authorities for the excellent arrangements provided for this meeting. I think that our presence here in Tallinn very well demonstrates the continued presence in NAFO of the interests of Estonia and other Member States, which formally were Members of NAFO, but now are part of the EU family.

Some of you might recall that when I addressed this Commission in my opening statement last year, I referred to various initiatives by interest groups to discredit the activities and decisions of NAFO. Another year has now gone by and it is disappointing to note that such initiatives seem to continue, ignoring the positive and constructive management decisions which this organisation adopted in recent years.

We have noted the release of a report from a Canadian Federal Commission which is very critical of NAFO and seeks its disbandment essentially. This report may reflect the views of certain interest groups in Canada which have traditionally blamed non Canadian fishing vessels for all the woes affecting the stocks. They ignore the reality that such vessels have access to less than 10 % of the fishing grounds on the Grand Banks. Equally, they ignore their own contribution to the destruction of key straddling stocks in this Area.

It is not surprising that this Canadian report should focus on past failings of NAFO. NAFO has certainly made errors of judgement in its past management. Critics however ignore more recent management decisions which go in the right direction, such as, the adoption of a rebuilding plan for Greenland halibut, management measures for previously unregulated stocks, and the adoption of a precautionary approach framework.

This year, we have also noted an increased interest in NAFO from NGOs. Greenpeace, for example, has recently published a case study about NAFO. The involvement of Greenpeace in the NAFO debate is something that we welcome, since we consider that NGOs have an important role to play in our deliberations on fisheries management issues. We actively supported guidelines for NGOs to apply for observer status at NAFO meetings. We note however that Greenpeace or other NGOs have regrettably not applied for observer status. If they had they could have come and presented their views during this weeks meeting.

I consider that this general debate on performance is healthy and should be pursued within NAFO. Clearly, NAFO has been in existence for a number of decades, which is not to consider that NAFO has not evolved in that time. The recent compliance assessment is but one example. The issue of reform of NAFO has been raised – we are certainly in favour of this process since it means a positive move to promote more effective multilateral cooperation between Parties.

We have been told that several NAFO Parties are in favour of a reform process. However, it seems that NAFO Parties up until now have very different visions as to what is being meant by a NAFO reform. One vision seems to see such a reform as essentially an opportunity to re-discuss matters which often have been subject of inconclusive and lengthy debates in the past. Another vision is that this as an opportunity for a performance assessment of NAFO in line with what was discussed on RFOs at the recent COFI meeting, whilst a third vision is more focused on the NAFO Convention and the need for an integrated oceans policy.

Be it as it may, it is in our view crucial that one has a clear vision on what the shortcomings might be and how such shortcomings can be addressed before we enter into such an exercise. We must have obviously a clear view on what legal instruments we might want to revise, which I the discussions should take place in, and how this discussion fits into the current structure of NAFO and mandates of existing NAFO bodies. In any case, I think that you will all agree with me that it would be most unfortunate and unproductive if the reform debate becomes nothing else than a repetition of inconclusive debates in the past. I could cite the lengthy debates on dispute settlement procedures which dragged on over years even though all but one party agreed on a text.

Mr Chairman, before closing let me just make some brief comments on fisheries management issues being before us this week. Given the poor state of several key stocks and that several other stocks are subject to multi-annual measures, we do not envisage many changes on these issues. We will however renew our firm commitment to the rebuilding plan for Greenland halibut, which is a very important stock for EC fishermen and on which our fleet has had to make the major sacrifices and adjustments. Also, we acknowledge the need for a detailed discussion of

management measures for 3L shrimp, which seem to be in a healthy state following the recommendation to substantially increase the TAC level.

My Delegation is in any case looking forward to working with you all on this and other important matters during the meeting.

Annex 5. Opening Statement by the Representative of the Republic of Korea
(Chiguk Ahn)

Mr. Chairman, Distinguished Delegates, Ladies and Gentlemen,

It is a great honor and pleasure for me to be here with you in the 27th Annual Meeting of NAFO. I'm extremely glad to be in Tallinn, the city of beauty, and I would like to thank the Estonian Government for hosting this meeting.

As you are well aware, Korea's prime concern within NAFO is to gain a profitable fishing quota for, at least, just one vessel. NAFO waters were the important fishing ground for Korean fishermen before Korea's acceding to the Convention in 1993. However, Korea could not have but suspended fishing activities since 1994, because of the small amount of fishing quota with which even one vessel cannot harvest.

Members of an organization should share the responsibility and benefits. However, Korea, as a member of NAFO, has only responsibility without benefit over 12 years. When this situation continues, my government will lose the justifiable reason for the continuous participation in NAFO.

I think that 12 years of no fishing in the Convention Area is the strongest action to preserve and restore fishery resources. I believe that this contribution should be duly reflected in the process of fishing quota allocation in the near future.

For the important agenda items of this meeting, my delegation will fully cooperate with other delegations during the course of meetings so that we can produce tangible results.

Thank you very much.

Annex 6. Opening Statement by the Representative of the United States of America
(Jack Dunnigan)

Mr. Chairman, and colleagues among the member delegations:

On behalf of the United States let me say how pleased we are to be in this beautiful capital city in Estonia. We have had the pleasure over the past few days of learning to appreciate the beauty, history and culture of this unique place, recognized by UNESCO and people everywhere as a world heritage site. One also can appreciate the resiliency of a people who have been at the crossroads for centuries, buffeted by a succession of outside interests, and now regaining once again the privileges of searching for and pursuing their own vision of their future. And the people of Tallinn have proven to be wonderfully warm and welcoming. We appreciate the European Union for hosting this meeting in this fine location, and to our colleagues and friends from Estonia for opening their doors.

We look forward to a series of interesting discussions this week. We particularly are interested in the agenda item relating to ecosystems approaches to management. We have spent a lot of time in the U.S. pursuing these ideas and hope to be able to contribute to the discussion. Concepts of ecosystems approaches to fisheries management are consistent with issues that the United States has been interested in in the NAFO context for quite some time, such as protection for bycatch species and the application of the precautionary approach. In this regard, the United States hopes to work with other parties this week to continue to address conservation of sensitive elasmobranch species, by joining other RMFO's in prohibiting the practice of shark finning.

We are also interested in the views of the contracting parties relative to modernizing the operations of NAFO. In this regard, NAFO may be able to develop experience that will be useful to all regional fisheries management organizations. It is becoming increasingly clear that NAFO is being looked at carefully. Although NAFO has been a leader in issues of science and moving forward in some areas, this organization's record of conservation and rebuilding stocks leaves much to be desired. In recent years, its record of treating all contracting parties fairly in allocation decisions has been similarly lacking. The UN Fish Stocks Agreement encourages states to participate in regional fisheries management organizations. It is against logic to think that they will, when those organizations provide weak conservation, and little other benefits. NAFO must be seen by the contracting parties and the larger community to be effective and fair. We have much work to do on each of these counts.

Thank you, Mr. Chairman.

**Annex 7. Opening Statement by the Representative of Denmark in respect of the
Faroe Islands and Greenland**
(Kate Sanderson)

Mr Chairman, distinguished delegates and observers,

It is a pleasure for the Faroe Islands and Greenland to be attending the 27th Annual Meeting of NAFO. It is a special pleasure for us to have this opportunity to visit the beautiful and historical city of Tallin here in Estonia. We would like to extend our sincere thanks to the Government of Estonia for hosting the meeting this year.

The main priority for our delegation at this meeting is to find a satisfactory resolution to the issue of allocation of shrimp in division 3L. As you know, we have tried unsuccessfully for several years to have this matter addressed seriously and in accordance with the NAFO Convention. Our position paper has been circulated to all delegations in advance of this meeting, outlining the issue as we see it and our main concerns.

Our point of departure and the fundament of our claim is the fishing history of the Faroe Islands in the area. The long-standing and pioneering efforts of Faroese shrimp fishermen in the Northwest Atlantic, as well as our contribution to scientific surveys over the years, have helped open up and develop the rational use of a viable and important resource in the region, from which others have also benefited.

We are ready, as we have always been, to sit down and negotiate the details and come up with a solution. We hope and expect that other delegations are also ready to do so. The robust state of the stock and the recommended increase in the TAC for next year is an obvious window of opportunity that must not be missed. If we let this opportunity pass us by, it will reflect very poorly indeed on the effectiveness of this organisation, which we know is under intense scrutiny, and on regional approaches to fisheries management in general.

Modernisation of NAFO is another key issue on our agenda this year, together with a discussion of ecosystem approaches to fisheries management. We wish to emphasise consistency across the North Atlantic in our approaches to these issues. We have been through a similar process in NEAFC recently by which we believe NAFO can usefully be guided.

It is always a major concern for small countries such as ours when the largest shareholders in a fisheries resource are not able to stick to the rules we have all agreed on. The Greenland Halibut Recovery Plan seems to be experiencing some difficulties. For Parties such as ourselves with a minimal share of this stock, it is of utmost importance that our share remains at a level that is actually worth fishing.

Finally Mr Chairman, may I say that our delegation looks forward to working constructively with all other delegations during this meeting.

Annex 8. Opening Statement by the Representative of the Russian Federation
(Anas Nurutdinov)

Distinguished Delegates, Ladies and Gentlemen,

We are glad to greet all the Contracting Parties participating in the present NAFO Annual Meeting. Let me express our thanks to Estonia for excellent conditions prepared for successful work.

The recent year of operation in the NAFO Regulatory Area and decisions from the latest conferences and meetings at the international level place great emphasis on the forthcoming discussions at this NAFO meeting.

We study with particular attention and take part in the process of implementation of the precautionary and ecosystem approaches into the practice of stock and fisheries management in the Convention Area. In our view, the use of such approaches is very promising. We hope that development and implementation of such approaches will permit us to improve the current situation with stocks and to reach long-term sustainable fisheries.

We expect that our discussions will take place in the traditional atmosphere of cooperation and on the basis of Scientific Council advice.

We look forward further development of regulatory measures in the 3O redfish fishery (that is to reach conformity between measures applied inside and outside the 200-mile zone of Canada) as well as regarding the oceanic redfish.

The Russian Federation wishes all of us fruitful work.

Annex 9. Opening Statement by the Representative of Ukraine
(Vasyl Chernik)

Mr. Chairman, distinguished Delegates, Ladies and Gentlemen,

Ukrainian delegation greets all the participants of the 27th NAFO Annual Meeting. It's a pleasure that the host of this meeting is our old neighbour and a new EU member – Estonia.

The first days spent here in Tallinn promise us good changes and serious solutions of this meeting.

Ukraine supports all the new and progressive initiatives, which were generated by the Ministerial Conference in St. John's, Canada on May 2005 and are useful for conservation of fish stocks and management of it on the scientifically based changes. We believe they will serve as an instrument for fair allocations of NAFO quotas between NAFO members, which have not reached the upper positions.

Ukraine now proposes to increase the role of the observers and partial enlargement of their duties and/or changing their functions as scientific observers. We also propose to organize international research expeditions.

No doubt, all these problems are complicated but very important. We believe that the exchange of ideas between NAFO members gives the possibility to solve all the problems.

Wishing success to this NAFO Meeting.

Many thanks for understanding.

Annex 10. Opening Statement by the Representative of Japan
(Miwako Takase)

On behalf of Japanese Delegation, I wish to make some opening remarks at the beginning of the NAFO 27th Annual Meeting.

First of all, I would like to express our sincere appreciation to City of Tallinn and the Government of Estonia as well as European Union for hosting this year's meeting of NAFO.

I would like to mention the following specific issues that Japan takes interest at this year's meeting.

NAFO has been taking strict regulatory measures for the fisheries in the convention area. At the last year's meeting, NAFO adopted TAC and allocation schemes for some species and consequently the NAFO conservation measures are taken for all of commercial species in NAFO Regulatory Area. NAFO also adopted various enforcement measures for many years. However the stock status of the most species is still under low level. To improve this situation, the issues of the compliance and enforcement have been discussed for years. However the issues of compliance and IUU fishing activities are still serious concern and we have to continue to tackle these issues.

On the other hand, in various international fora including the United Nations, fisheries issues are taken up and moratorium on bottom trawling are requested by some NGOs from concern of the bad impacts on marine ecosystem. It is a strong Japanese position that fisheries issues should be treated by fisheries management organizations which have expertise for fisheries. Under the present situation, Regional Fisheries Management Organizations including NAFO should show their competence for fisheries management taking consideration of marine environment and the issue should be well addressed in this meeting.

Finally, Japan would like to confirm its commitment to work with all the participants here for successful results of this meeting.

Thank you.

Annex 11. Opening Statement by the Representative of France (in respect of SPM)
(Daniel Silvestre)

Mr Chairman, distinguished Delegates, Ladies and Gentlemen

Let us first express our warm thanks to the Estonian Authorities for the organization of the NAFO Annual Meeting in the beautiful and historic city of Tallinn.

This Meeting is of a significant importance for NAFO in the general context of world fisheries management. In fact, due to this general context, we find ourselves at a cross road, and we would like to mention the recent major events relevant for future development of our Organization:

- The recent COFI/FAO Meeting, in particular the items dealing with protected areas, ecosystem approach and deep sea fisheries;
- The work carried on within the UN framework;
- The Ministerial Conference of Saint John organized by Canada, which led to the Ministerial Declaration.

The first question we have to answer relates to the current status of NAFO, and whether the Organization meets the present needs such as expressed in the various international Foray. In this respect, two important prospective documents have been tabled for this Meeting, by Canada and Norway.

France is of the opinion that NAFO, despite the fact of not being a recent RFO, has been working, and even if the text of the instrument does not contain provisions included in more recent instrument, the Organization, partly because the flexibility of the text, have set up efficient subcommittees and has gained much experience in fisheries management, even if the stocks are far from recovery. We therefore are not starting from scratch.

NAFO nevertheless needs some updating, to integrate on one hand the wording of the main objectives and principles resulting from the work of the international community, and on the other hand consider the possibility of developing a modified structure.

We consider that a way to meet these objectives would be to follow some basic principle such as:

- A modified text which should remain as simple as possible, and which should contain references to the precautionary approach and fisheries management in relation with ecosystems;
- The measures identified and taken for management and compliance should remain in the hands of the competent Commission and Committee(s). For instance the question of the protected areas and the protection of deep sea coral reefs should be addressed within the framework of the competent NAFO body taking into account all fishing gears adverse to the ecosystem and not limited to bottom trawling for instance.
- An adapted objection procedure

In this respect, we look forward for a proposed terms of reference, should a working group be set up to modify the Convention.

As far as the “regular” work of the NAFO Annual Meeting is concerned, France (SPM) would like not to modify the present management provisions and keys allocation in respect of the different regulated stocks and recovery plans (quotas and fishing effort).

France (SPM) has very little fishing possibilities, but despite the fact that they are far to be sufficient, they are very important for a small Island, which has always lived from sea resources

Concerning the proposed TAC, we should take due account of the recommendations delivered by the Scientific Council.

As far as NAFO compliance measures are concerned, the port of Saint Pierre has been recently and successfully used as port of inspection, at the request of the Parties involved.

If the Parties so wish, we would be ready to examine the possibility to improve and to formalize the fact that this harbour, being located close to NAFO fisheries areas, could be considered as one port of inspection.

Thank-you.

Annex 12. Record of Decisions Agreed upon by the General Council

Substantive Issue (Agenda Item)	Decision/Action
11. Modernization of RFMOs – Proposal for NAFO	GC W.P. 05/8, Rev. 2 - Adopted
13. Administrative Report	GC Doc. 05/1 - Adopted
16. Consideration of the Renewal of the Executive Secretary	Contract of Executive Secretary extended for another term of four years starting 2007
20. STACFAC report and recommendations	Report adopted in whole Modified NCP Scheme - STACFAC WP 05/4(rev.) adopted
22. STACFAD report 23. Adoption of Budget and Recommendations	Report adopted in whole Budget of \$1,519,000 for 2006 adopted ; and, all other recommendations of STACFAD were adopted .
24. Time and Place of Next Annual Meeting	Agreed: Next Annual Meeting to be held in Halifax, Nova Scotia, Canada, on the following dates: Scientific Council: 13-22 September 2006 General Council/Fisheries Commission: 18-22 Sep 2006

Annex 13. Agenda

I. Opening Procedure

1. Opening by the Chair, David Bevan (Canada)
2. Appointment of Rapporteur
 - duties include maintaining record of agreed General Council decisions at Annual Meeting
3. Adoption of Agenda
4. Admission of Observers
5. Publicity
6. Guidance to STACFAD necessary for them to complete their work (Monday)
7. Guidance to STACFAC necessary for them to complete their work (Monday)

II. New Initiatives

8. FC/GC/SC Joint Session (chaired by FC): Discussion of Ecosystem Approach to Fisheries Management (set for Tuesday, 20 September, from 11:00am -12:30pm)
9. Report by Canada on the St. John's Conference on the Governance of High Seas Fisheries and the UN Fish Agreement – Moving from Words to Action
10. The NAFO Convention in the context of recent developments concerning ocean governance
11. Modernization of RFMO's – Proposal for NAFO

III. Supervision and Coordination of the Organizational, Administrative and other Internal Affairs

12. Review of Membership
 - a) General Council
 - b) Fisheries Commission
13. Administrative Report (STACFAD)
14. Enhancement of Public Relations
15. NAFO Journal
16. Consideration of the Renewal of the Executive Secretary's Contract
17. Consideration of Staff Rule 4.1 – Maximum Renewal of Terms of the Executive Secretary

IV. Coordination of External Affairs

18. Report of Executive Secretary on meetings of: FIRMS, CWP, COFI, RFB and NARFMO

V. Fishing Activities in the Regulatory Area Adverse to the Objectives of the NAFO Convention

19. Consideration of non-Contracting Party activity in the NAFO Regulatory Area and agreement on the task of STACFAC at the current meeting
20. Report of STACFAC at the Annual Meeting and decisions on actions
21. Dispute Settlement Procedures

VI. Finance

22. Report of STACFAD at the Annual Meeting
23. Adoption of the Budget and STACFAD recommendations for 2006

VII. Closing Procedure

24. Election of Chair and Vice-Chair
25. Time and Place of Next Annual Meeting
26. Other Business
27. Press Release
28. Adjournment

Annex 14. FAO Statement to the 27th Annual Meeting of NAFO
(H. Watanabe)

Mr. Chairman, distinguished delegates and observers:

FAO is very grateful for the invitation extended by the Secretariat of the Northwest Atlantic Fisheries Organization (NAFO), to observe Twenty-seventh Annual Meeting held in this beautiful and historical city of Tallinn. FAO has been keeping a close and effective working relationship with NAFO and desires to continue such collaboration.

FAO appreciates, in particular, the cooperativeness of the NAFO Secretariat in responding to FAO's periodic requests for information relating to NAFO's activities. Such collaboration greatly assists FAO in meeting its global fisheries reporting responsibilities.

The role of regional fishery bodies has been increasing its importance and highly expected in sustainable and responsible fisheries management all over the world. The Twenty-sixth Session of the FAO Committee on Fisheries (COFI) and the Ministerial Meeting on Fisheries held last March in Rome underscored the importance of Regional Fisheries Management Organizations (RFMOs) and expressed its expectation that these organizations would take the lead as we move toward more responsible fisheries. In particular, COFI encouraged RFMOs to consider introducing and implementing the ecosystem approach to fisheries, requested RFMOs, as appropriate, to collect and submit information on deep-sea fisheries to FAO and noted that RFMOs would need to interact with other relevant Intergovernmental Organizations (IGOs) when introducing Marine Protected Areas (MPAs).

Immediately after COFI, the Fourth Meeting of Regional Fishery Bodies (RFB-4) was held and also reconfirmed the important role that Regional Fishery Bodies (RFBs) have to play in sustainable fisheries. Furthermore, the Meeting discussed a number of essential matters for RFBs such as external factors affecting fisheries management, harmonization of catch documentation, relations between RFBs and the United Nations Environmental Programme (UNEP) and the status of the Fisheries Resources Monitoring System (FIRMS) of FAO.

Since NAFO is one of the world's leading RFBs, having a long history and much experience in the sustainable management of fisheries in the Northwest Atlantic Ocean, it is anticipated that NAFO will continue playing a significant role in regional action to secure sustainable and more responsible fisheries management, as agreed and recommended during COFI and the Meeting of RFBs.

FAO was well informed of the outcome of the St. John's Ministerial Conference and is aware that many RFBs around the world, including NAFO, are facing new challenges and responsibilities and, therefore, need to be strengthened. This is being done so that major issues such as IUU fishing can be more effectively addressed and that the spirit and intent of the international fisheries instruments concluded in the post-UNCED period are properly reflected and implemented by RFBs. FAO encourages and wishes to collaborate with RFBs to be better equipped to manage fisheries and given the central role in promoting sustainable fisheries.

Mr. Chairman,

I will carefully and conscientiously observe the proceedings of this meeting and report back to the management of FAO's Fisheries Department.

Let me conclude, Mr Chairman, by saying that I bring to the meeting greetings from FAO's Assistant Director-General for Fisheries, Mr Ichiro Nomura. He wishes the meeting's every success in its deliberations.

Thank you very much, Mr. Chairman, for the opportunity to make this statement on behalf of FAO.

**Annex 15. Opening Remarks of the ICCAT Executive Secretary to the
27th Annual Meeting of NAFO
(D. Meski)**

Mr. Chairman,
Distinguished Delegates,
Madam Executive Secretary,

I would like to thank you for inviting ICCAT to participate in this 27th Annual Meeting of NAFO as an observer. I am very pleased to be here in this beautiful city of Tallinn.

I am also pleased to see several representatives of ICCAT Contracting Parties at this meeting. ICCAT is happy to share experiences with NAFO, and to strengthen cooperation and exchange of information between Regional Fisheries Management Organizations.

I am sure that the decisions taken at this meeting, particularly in areas which affect fisheries management in general, will be of great interest to our Commission.

I should like to take this opportunity to wish you all a successful meeting.

Thank you.

Annex 16. 2005 Annual Meeting Press Release

NAFO Starts a Reform Process

TALLINN, ESTONIA – Northwest Atlantic Fisheries Organization (NAFO) has launched a review of the NAFO Convention, especially with a view to incorporating more integrated oceans management approaches, reforming decision-making processes, and examining the current structure of NAFO.

The decision was made at the 27th Annual Meeting of NAFO held in Tallinn, Estonia, 19-23 September 2005.

In the context of modernization, NAFO bodies were asked to make recommendations to strengthen NAFO monitoring, control and surveillance measures through modifications in the areas of sanctions, role of observers and follow-up on infringements.

First steps towards an ecosystem approach

NAFO scientists were tasked to look into areas of marine biological and ecological significance for NAFO. In addition, NAFO fishing vessels will collect, on a voluntary basis, data on seamounts in the NAFO area. These undersea mountains are viewed as potentially vulnerable ecosystems that might warrant special protection.

Ecosystem studies have long been a part of the work of the Scientific Council. In 2006, NAFO will hold a symposium to advance knowledge of the Northwest Atlantic ecosystems.

During the past year NAFO began discussions of applying the ecosystem approach to fisheries management. An important milestone was made in 2004 when NAFO adopted and began to implement a framework for the Precautionary Approach. Progress continues to be made in the application of the Precautionary Approach to stock assessments.

NAFO bans shark finning

In keeping with its ecosystem approach, NAFO adopted measures banning finning, and the transshipment and landing of shark fins to improve the protection of sharks in the NAFO area. These measures are consistent with those adopted by regional tuna commissions (ICCAT, IATTC).

Blacklist for IUU vessels

NAFO has created a procedure to blacklist non-NAFO member vessels involved in Illegal, Unreported and Unregulated (IUU) fishing in the Northwest Atlantic. This is an important step for global cooperation. In addition, NAFO will automatically share information about these IUU fishing activities with other regional fishery bodies and with the Food and Agriculture Organization of the United Nations (FAO).

The meeting was attended by 200 delegates from eleven Contracting Parties - Canada, Denmark (in respect of Faroe Islands and Greenland), European Union, France (in respect of St. Pierre et Miquelon), Iceland, Japan, Republic of Korea, Norway, Russia, Ukraine and United States of America.

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Additional highlights of the meeting can be found in the attached background.

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Backgrounder

The **General Council** was chaired by David Bevan (Canada), and looked into administrative matters.

The **Scientific Council** under the chairmanship of Dr. Joanne Morgan (Canada) conducted assessments of stocks in the NAFO Convention Area during the past year and its advice was presented to Fisheries Commission. The scientific assessments concluded that yellowtail flounder in Div. 3LNO and northern shrimp on the Flemish Cap and the Grand Bank remain bright spots with healthy populations. NAFO scientists also advised that directed fisheries continue on two stocks of redfish, white hake, thorny skate and Greenland halibut. However, Scientific Council recommended that moratoria be maintained for 8 of the 15 fish stocks assessed by NAFO.

The Scientific Council also coordinates research on a variety of subjects including studies on fishing gear, oceanography, and a range of biological issues on various marine species in the Northwest Atlantic.

NAFO Fisheries Commission, chaired by Dean Swanson (USA) adopted the recommendations made by the Scientific Council. In addition, NAFO agreed on a number of measures to maintain and increase NAFO's ability to protect the fishery resources of the Northwest Atlantic (a complete list of these measures will be available in the meeting reports). **Attached is the table of Total Allowable Catches (TAC) and quotas agreed at this session.**

The following points represent additional highlights from the Annual Meeting:

More fishing opportunities for shrimp in 3L

The increased growth of the shrimp stock in Div. 3L allowed NAFO to raise the TAC to 22,000 tons following the scientific advice

NAFO Compliance Review

The second NAFO Annual Compliance Review was adopted. This review summarizes issues regarding compliance with the NAFO Conservation and Enforcement Measures and will be available on the NAFO website (www.nafo.int).

Reduced TAC for straddling oceanic redfish

The oceanic redfish stock that straddles the Northwest and the Northeast Atlantic is managed jointly with the Northeast Atlantic Fisheries Commission (NEAFC). In accordance with a decision taken earlier by NEAFC to reduce its TAC, NAFO reduced its TAC for oceanic redfish.

Protection of Greenland halibut continues

Following the 15-year rebuilding plan for Greenland halibut adopted in 2003, NAFO confirmed the reduction for the TAC in 2006.

Greenland halibut is estimated to be at its lowest level since 1975. Fishing mortality is high and prospects for the rebuilding of this stock in the short term are poor.

Combating fishing by non-NAFO member vessels

NAFO was informed that seven vessels flagged to Dominica had been sighted by Canadian aerial surveillance in the NAFO Regulatory Area in 2004 and 2005. Following diplomatic demarches made to Dominica by several NAFO members, Dominica cancelled the registration of seven of the vessels in question.

2006 NAFO Symposium

The Scientific Council is sponsoring a symposium entitled “*Environmental and Ecosystem Histories in the Northwest Atlantic – What Influences Living Marine Resources?*”. This Symposium will take place in conjunction with the NAFO 28th Annual Meeting in Dartmouth, Nova Scotia, Canada, on 13 to 15 September 2006.

Election of Officers

The following NAFO officers were elected in 2005:

General Council

Chair: David Bevan (Canada)

Vice-Chair: Terje Lobach (Norway)

Standing Committee on Finance and Administration (STACFAD)

Chair: Fred Kingston (EU)

Vice-Chair: Frederik Schmidt (Denmark in respect of Faroe Islands & Greenland)

Fisheries Commission

Chair: Vladimir Shibanov (Russian Federation)

Vice-Chair: Kolbeinn Arnason (Iceland)

Standing Committee on International Control (STACTIC)

Chair: Höskuldur Steinarsson (Iceland)

Vice-Chair: Mads Nedergaard (Denmark in respect of Faroe Islands & Greenland)

Scientific Council

Chair: Antonio Vázquez (EU-Spain)

Vice Chair: Konstantin Gorchinsky (Russian Federation)

Standing Committee on Research Coordination (STACREC)

Chair: Konstantin Gorchinsky (Russian Federation)

Standing Committee on Fisheries Science (STACFIS)

Chair: Don Power (Canada)

Standing Committee on Fisheries Environment (STACFEN)

Chair: Eugene Colbourne (Canada)

Standing Committee on Publications (STACPUB)

Chair: Manfred Stein (EU-Germany)

Prior to the Annual Meeting, the following NAFO meetings were held during 2005: (1) Standing Committee on International Control (STACTIC) (Reykjavik, Iceland, 13-15 April) and (2) Scientific Council Regular Meeting (Dartmouth, N.S., Canada, 1-15 June).

NAFO Executive Secretary

23 September 2005, Tallinn, Estonia

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**CEM Annex I.A.
Annual Quota Table**

QUOTA TABLE. Total allowable catches (TACs) and quotas (metric tons) for 2006 of particular stocks in Subareas 1-4 of the NAFO Convention Area. The values listed include quantities to be taken both inside and outside the 200-mile fishing zone, where applicable.

Species	Cod			Redfish				American plaice		Yellowtail	Witch	
	3L	3M	3NO	3LN	3M	3O	Sub-Area 2 and Div. 1F+3K	3LNO	3M	3LNO	3L	3NO
Canada		0	0	0	500	6000	627 ^{2,4}	0	0	14624 ⁵		0
Cuba		0	-	0	1750		627 ^{2,4}	-	-	-		-
Denmark (Faroe Islands and Greenland)		0	-	-	69		15675 ^{2,3}	-	-	-		-
European Union		0 ¹¹	0 ¹¹	0 ¹¹	7813 ¹²	7000	$\frac{15675^{2,3}}{4076^{2,15}}$	0	0 ¹¹	-		0 ¹¹
France (St. Pierre et Miquelon)		-	-	-	69		627 ^{2,4}	-	-	300 ⁵		-
Iceland		-	-	-	-		15675 ^{2,3}	-	-	-		-
Japan		-	-	-	400	150	627 ^{2,4}	-	-	-		-
Korea		-	-	-	69	100	627 ^{2,4}	-	-	-		-
Norway		0	-	-	-		15675 ^{2,3}	-	-	-		-
Russia		0	0	0	9137	6500	15675 ^{2,3}	-	0	-		0
Ukraine						150	627 ^{2,4}					
United States of America		-	-	-	69		627 ^{2,4}	-	-	-		-
Others		0	0	0	124	100	-	0	0	76 ⁵		0
TOTAL ALLOWABLE CATCH	*	*	* ¹⁶	* ¹⁶	5000 ^{8,16}	20000 ¹⁶	20378 ^{10,17}	* ¹⁶	*	15000 ⁹	* ¹⁶	*

Species	White hake	Capelin	Skates	Greenland halibut	Squid (Illex) ¹	Shrimp	
Division/Contracting Party	3NO	3NO	3LNO	3LMNO	Sub-areas 3+4	3L	3NO
Canada	2500	0	2250	2056	N.S. ⁶	18325	
Cuba		0		-	510	245	
Denmark (Faroe Islands and Greenland)		-		238	-	245	
European Union	5000	0 ¹¹	8500	8038 ¹⁸	<u>N.S.</u> ⁶ 611 ¹³	1225 ¹⁴	
France (St. Pierre et Miquelon)		-		224	453	245	
Iceland		-		-	-	245	
Japan		0		1405	510	245	
Korea		-		-	453	245	
Norway		0		-	-	245	
Russia	500	0	2250	1748	749	245	
Ukraine						245	
United States of America		-		-	453	245	
Others	500	-	500	0 ⁷	794	0	
TOTAL ALLOWABLE CATCH	8500¹⁶	*¹⁶	13500¹⁶	13709	34000	22000	*

* Ban on fishing in force – The provisions of Article 9, paragraph 3 shall apply.

1. Any quota listed for squid may be increased by a transfer from any “coastal state” as defined in Article 1, paragraph 3 of the NAFO Convention, provided that the TAC for squid is not exceeded.

Transfers made to Contracting Parties conducting fisheries for squid in the Regulatory Area shall be reported to the Executive Secretary, and the report shall be made as promptly as possible.

2. The Contracting Parties shall notify the Executive Secretary every second week of catches taken by its vessels from this allocation until accumulated reported catch reaches 50%, after which time weekly notification shall apply. The Executive Secretary shall notify without delay all Contracting Parties the dates on which accumulated reported catch taken by vessels of Contracting Parties estimated equal to 50% and then 100% of that allocation.

3. Quota to be shared by vessels from Denmark (Greenland and Faroe Islands), European Union, Iceland, Norway and Russia. Catches in the NAFO Convention Area shall be deducted from the quotas allocated in the NEAFC Convention Area.

4. Quota to be shared by vessels from Canada, Cuba, France (St. Pierre et Miquelon), Japan, Korea, Ukraine and USA.

5. Contracting Parties shall inform the Executive Secretary before 1 December 2005 of the measures to be taken to ensure that total catches do not exceed the levels indicated.
6. The allocation to these Contracting Parties are as yet undetermined, although their sum shall not exceed the difference between the total of allocations to other Contracting Parties and the TAC (= 29.458 tons).
7. In 2005, the previous 935 t "Others" quota was assigned to three Contracting Parties. When the TAC exceeds 30,000 t the next 1,300 t beyond 30,000 will be allocated to an Others quota which can be accessed by those who do not hold Greenland halibut allocation. In deciding the relevant contributions of Contracting Parties to the 1300 t Others quota, the Fisheries Commission will take into account the fact that some Contracting Parties received a benefit from the 935 t quota which was reassigned in 2005.
8. Each Contracting Party shall notify the Executive Secretary every second week of catches taken by its vessels from this stock until accumulated reported catch reaches 50%, after which time weekly notification shall apply. Not more than 2500 tons may be fished before July 1, 2006. The Executive Secretary shall notify without delay all Contracting Parties of the date on which, for this stock, accumulated reported catch taken by vessels of the Contracting Parties is estimated to equal 50% and then 100% of the TAC.
9. The provisions of Article 9, paragraph 3 of the Conservation and Enforcement Measures shall apply.
10. In the case of the NEAFC decision which modifies the level of TAC for this stock in 2006 as compared to 2005, these figures shall be accordingly adjusted by NAFO and formalized through a mail vote.
11. Including fishing entitlements of Estonia, Latvia, and Lithuania following their accession to the European Union and in accordance with sharing arrangements of the former USSR quota adopted by the Fisheries Commission at its Annual Meeting in 2003 (FC Working Paper 03/7).
12. Including allocations of 1571 tonnes each for Estonia, Latvia and Lithuania out of a sharing of 20,000 tonnes, following their accession to the European Union.
13. Allocations of 128 tonnes each for Estonia, Latvia and Lithuania as well as 227 tonnes for Poland out of a TAC of 34,000 tonnes, following their accession to the European Union.
14. Including allocations of 245 tonnes each for Estonia, Latvia, Lithuania and Poland out of a TAC of 22000 tonnes, following their accession to the European Union ↵
15. Allocation of 3637 tonnes for Lithuania and 439 tonnes to Latvia following their accession to the European Union.
16. Applicable to 2006 and 2007.
17. The quota shares in footnotes 4 and 15 can only be fished in the NAFO Regulatory Area. If an increase in the overall TAC as defined in footnote 10 leads to an increase in these shares, the first 500 tonnes of that increase shall be added to the quota share referred to in footnote 4.
18. Including an allocation of 450 tonnes for Estonia, Latvia, and Lithuania following their accession to the European Union.

CEM Annex I.B
Effort Allocation Scheme for Shrimp Fishery in the
NAFO Regulatory Area Div. 3M, 2006

CONTRACTING PARTY	NUMBER OF FISHING DAYS	NUMBER OF VESSELS
Canada	456	16
Cuba	100	1
Denmark		
– Faroe Islands	1606	8
– Greenland	515	14
European Union	3293 ¹	33 ¹
France (in respect of St Pierre et Miquelon)	100	1
Iceland	N/A	N/A
Japan	100	1
Korea	100	1
Norway	1985	32
Russia	2100	N/A
Ukraine	100	1
USA	100	1

¹ Including fishing entitlements transferred from Poland (100 fishing days with one vessel), Estonia (1667 fishing days with 8 vessels), Latvia (490 fishing days with 4 vessels) and Lithuania (579 fishing days with 7 vessels) following their accession to the European Union.

CEM Annex I.C
Rebuilding Plan for 3LMNO Greenland Halibut

Species	Greenland halibut	Greenland halibut	Greenland halibut	Greenland halibut
Division/ Contracting Party	3LMNO 2004	3LMNO 2005	3LMNO 2006	3LMNO 2007
Canada	2223	2112	2056	1778
Cuba	-	-	-	-
Denmark (Faroe Islands and Greenland)	-	244	238	206
European Union	8203	8254 ³	8038 ⁴	6951 ⁵
France (St Pierre et Miquelon)	-	230	224	194
Iceland	-	-	-	-
Japan	1519	1443	1405	1215
Korea	-	-	-	-
Norway	-	-	-	-
Russia	1890	1796	1748	1512
Ukraine	-	-	-	-
United States of America	-	-	-	-
Others	985 ¹	0 ²	0 ²	0 ²
TOTAL ALLOWABLE CATCH	14820	14079	13709	11856

¹ Of which no more than 60% may be fished before 1 May in each year.

² In 2005, the previous 935 t "Others" quota was assigned to three Contracting Parties. When the TAC exceeds 30,000 t the next 1,300 t beyond 30,000 will be allocated to an Others quota which can be accessed by those who do not hold Greenland halibut allocation. In deciding the relevant contributions of Contracting Parties to the 1300 t Others quota, the Fisheries Commission will take into account the fact that some Contracting Parties received a benefit from the 935 t quota which was reassigned in 2005.

³ Including an allocation of 461 tonnes for Estonia, Latvia and Lithuania following their accession to the European Union.

⁴ Including an allocation of 450 tonnes for Estonia, Latvia and Lithuania following their accession to the European Union.

⁵ Including an allocation of 389 tonnes for Estonia, Latvia and Lithuania following their accession to the European Union.

Annex 17. Reform of NAFO
(GC Doc. 05/2)

The General Council and Fisheries Commission of NAFO:

Noting the conclusions of the St. John's Conference in May 2005 (Annex 1) and the Fisheries Ministerial Meeting of COFI in March 2005 in Rome and other recent developments in ocean governance as outlined in GC Working Paper 05/1;

Anxious that NAFO, a regional fisheries organization (RFO) of long standing, should as a matter of priority address the concerns and issues contained in those recent political declarations;

Conscious that if these issues are to be addressed efficiently, consideration should be channeled through existing mechanisms within NAFO, where possible:

Decides on the following course of actions to address the reform of NAFO:

1. An ad hoc Working Group on NAFO Reform (WG Reform) shall be established to review and, where appropriate, develop recommendations to modify and/or complete the provisions of the NAFO Convention. A four-day WG session shall be hosted by Canada on April 25-28, 2006 under the Chairmanship of the European Union and Canada¹. The WG's report and recommendations shall be submitted to the 2006 Annual Meeting for decision. One further meeting of the WG could be necessary in 2007, should that be required by the workload.

The Terms of Reference of the WG Reform shall be as follows:

- (i) Evaluate and recommend the changes to the NAFO Convention to reform the decision-making process as outlined in paragraphs 4A and B of the St. John's Declaration;
 - (ii) Examine the current structure of NAFO (constituent bodies and their subsidiary bodies) and recommend changes to streamline the structure and operation of the NAFO in order to make it a more effective RFO;
 - (iii) Deliberate on any other matter relating to the provisions of the Convention, as NAFO Members deem appropriate.
2. The Fisheries Commission directs STACTIC to devote its Intersessional Meeting in mid 2006 to review, in accordance with paragraphs 4 C and D of the St. John's Declaration, on the effectiveness of the existing NAFO monitoring, control and surveillance (MCS) regime to determine the changes needed to be introduced to strengthen such instruments and make them more effective and efficient, in terms of operation, results and costs. Most notably, but not limited to, STACTIC will review and provide recommendations on establishment of guidelines for sanctions, role of observers and follow-up on infringements.
 3. The Fisheries Commission will address at its Annual Meetings the issues outlined in paragraph 5 of the St. John's Declaration.

¹Chair: EU; Vice-Chair: Canada

Annex 1
(GC Doc. 05/2)

Conference on the Governance of High Seas Fisheries and the UN Fish Agreement – Moving from Words to Action

St. John's, Newfoundland and Labrador, Canada
May 1-5, 2005

We, the Ministers at the St. John's Conference on the Governance of High Seas Fisheries and the UN Fish Agreement (UNFA):

Recognizing the need to ensure the long-term conservation and sustainable use of fish stocks through the effective implementation of the obligations of States in this respect;

Acknowledging that the sustainable use of fish stocks is a significant and replenishable source of healthy food for large parts of the world's population, and that continued sustainable use provides for increased food security on a global basis;

Expressing concern that in many parts of the world certain fish stocks are overfished;

Expressing concern with the significant adverse impacts that such overfishing has had on the state of fisheries resources and their ecosystems, and on the economies of States and coastal communities around the world that depend on these resources for their livelihood;

Reiterating our commitment to responsible fisheries;

Recognizing that all States have the right for their nationals to engage in fishing on the high seas subject to their treaty obligations, to the rights, duties and interests of coastal States, inter alia in the conservation and management of straddling fish stocks and highly migratory fish stocks, to the duty of States to cooperate with each other in their conservation and management, as well as the duty of States to control the activities of vessels flying their flag, in accordance with UNCLOS¹ and UNFA²;

Recognizing the need for conservation and management measures for straddling fish stocks and highly migratory fish stocks adopted for the high seas and those adopted for areas under national jurisdiction to be compatible, and the obligation of States fishing on the high seas and coastal States to cooperate to this end;

Recognizing that sub-regional and regional fisheries management organizations and arrangements (RFMO/As) have played a significant role with regard to the governance of high seas fisheries and are the most effective means of cooperating in the conservation and management of high seas fish stocks and that good governance and management by these RFMO/As contribute to ensuring the effective long-term conservation and sustainable use of high seas fish stocks, including curbing overfishing;

Recognizing that RFMO/As today face new challenges and responsibilities, and while the governance of some RFMO/As has been improved by incorporating the principles and provisions of newly developed international instruments and tools, including, inter alia, those related to ecosystem considerations in fisheries management, other RFMO/As remain to be so improved and, to that end, there is a need for political will to further strengthen and modernize RFMO/As to ensure that such challenges and responsibilities are effectively addressed;

[1]United Nations Convention on the Law of the Sea of 10 December 1982.

[2]Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995.

Reaffirming the importance of universal compliance with the existing international legal framework for the governance of high seas fisheries;

Acknowledging the need to ensure that there is a genuine link between flag States and their vessels and that the responsibilities deriving therefrom are fulfilled;

Reaffirming our commitment to the implementation of the relevant parts of Agenda 21 and to the Johannesburg Plan of Implementation agreed at the World Summit on Sustainable Development in 2002 in relation to achieving sustainable fisheries;

Commending the results of the March 2005 COFI Meeting, as well as the 2005 Rome Ministerial Declaration on Illegal, Unreported and Unregulated (IUU) fishing where the desire was expressed "to move from words to action through full implementation of various international instruments for sustainable fisheries adopted or enacted in the past decades";

Acknowledging the ongoing work of the High Seas Task Force in the area of IUU Fishing,

We declare that we will move from words to the following actions:

1. We urge all States that have not already done so, to become parties to UNCLOS, UNFA and the FAO Compliance Agreement³, and call on States and entities to effectively implement all provisions of these international agreements directly and within each RFMO/A of which they are a member.

2. Ministers representing States or Regional Economic Integration Organizations (REIOs) that are parties to UNFA commit to writing to Non-parties urging them to become party to UNFA at the earliest opportunity.

3. We will implement in a timely fashion the Johannesburg Plan of Implementation agreed at the World Summit on Sustainable Development in 2002 in relation to achieving sustainable fisheries

4. We will work within RFMO/As of which the State or REIO we respectively represent is a member, to review and strengthen them, where necessary, in a manner that does not overlap or duplicate the mandate of other existing RFMO/As, to:

A. Implement a decision-making process which:

i) relies on the best scientific information available;

ii) incorporates the precautionary approach;

iii) incorporates ecosystem considerations in fisheries management with due consideration to the work of relevant scientific bodies and initiatives;

iv) uses criteria for allocations which properly reflect the interests and needs of coastal States and developing States, including small island developing States, in whose areas of national jurisdiction the fish stocks also occur, as well as those of fishing States; and,

v) achieves compatibility between conservation and management measures established for the high seas and those established for areas under national jurisdiction;

[3]Food and Agriculture Organization Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993.

B. Ensure that the decision-making processes of these RFMO/As support the conservation and sustainable use of fish stocks they manage by:

- i) strengthening or developing dispute settlement procedures to provide for the review of fisheries conservation and management decisions and of behavior following opting out of such decisions that may undermine conservation and management of the fish stocks concerned;
- ii) strengthening or developing procedures for the settlement of disputes in accordance with UNCLOS and UNFA;

C. Establish or strengthen the monitoring, control and surveillance (MCS) regimes of RFMO/As including as needed joint MCS systems, the dissemination of collected data as may be agreed and regular compliance review mechanisms, ensuring that the costs of MCS systems are shared in a fair and transparent manner;

D. Establish regional guidelines for States to use in establishing sanctions for non-compliance by their flag vessels and nationals that are adequate in severity to effectively secure compliance, deter further violations and deprive offenders of the benefits accruing from their illegal activities.

5. We agree that in order to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources:

- A. Where a RFMO/A has established a total allowable catch (TAC) and allocations, members should ensure that their fishing effort does not result in catches that exceed their fishing possibilities;
- B. Where a RFMO/A has established an overall TAC, but has not yet set allocations, members and the RFMO/A should monitor catches and fishing effort to ensure that the TAC is not exceeded;
- C. Where the scientific advice regarding an unregulated stock indicates that conservation and management measures are necessary, RFMO/A members should, as a matter of priority, agree on appropriate measures and, in the interim, exercise restraint with regard to their fishing effort for that stock in accordance with the precautionary approach;
- D. States, REIOs and entities, individually and through RFMO/As of which they are a member, should cap and then reduce excess fishing capacity to be commensurate with the status of fish stocks;
- E. States, REIOs and entities should avoid the transfer of fishing capacity to other fisheries or areas including, but not limited to those areas where fish stocks are overexploited or in a depleted condition.

6. We will work together, including within RFMO/As of which the State or REIO we respectively represent is a member, to implement measures to further mitigate by-catch, particularly of vulnerable non-target marine species such as seabirds as well as sea turtles and to adopt measures to conserve and manage shark stocks in directed and non-directed fisheries and to minimize waste and discards, in accordance with the FAO Guidelines and International Plans of Action for these species.

7. We will work together, including within RFMO/As of which the State or REIO we respectively represent is a member, to ensure that States that fish on the high seas do not engage in unsustainable fishing practices, including those that adversely affect coastal developing States.

8. We call upon States to cooperate in establishing new RFMO/As or arrangements, where necessary, with sufficiently comprehensive mandates, to facilitate cooperation in respect of fish stocks or areas of the high seas not currently managed by any RFMO/As taking due account of the commitments made in this Declaration.

9. We call upon all States and entities fishing in areas of competence of RFMO/As but that are not a member of those RFMO/As to immediately join or agree to apply the conservation and management measures established by such RFMO/As in accordance with UNCLOS and UNFA. Efforts need also be made to allow developing States to achieve legitimate development goals pertaining to poverty alleviation and improvement of the lives of fishermen.

10. We recognize that States, REIOs or entities that are neither members of RFMO/As nor have agreed to apply their conservation and management measures shall not have access to the fisheries resources to which those measures apply and any catches of such fishery resources should be denied market access in accordance with international law.

11. We urge all States Parties and other States to work together to prepare for the UNFA Review Conference to be held in May 2006 in accordance with Article 36 of the Agreement, which will inter alia assess the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks, including but not limited to the functions of RFMO/As as defined in Article 10 of UNFA.

12. We will follow up on commitments made at the FAO 2005 Rome Ministerial Declaration on IUU Fishing and will work within RFMO/As to establish or strengthen measures to prevent, deter and eliminate IUU fishing and other fishing activities by States, REIOs or entities that undermine the effectiveness of the conservation and management measures of the RFMO/As.

13. We will work to address possible gaps which may include those related to:

A. the sustainable management of discrete high seas fisheries (including deep sea fisheries),

B. the conservation and sustainable use of marine biodiversity and sensitive marine ecosystems,

C. defining the genuine link between flag states and the fishing vessels flying their flag,

D. the obligations of port States and the development and implementation of stronger port state measures in accordance with international law,

and that further steps should be taken in this direction.

14. We recognize the need to assist developing States in implementing relevant agreements, instruments and tools for the conservation and management of fish stocks, including through existing funds such as the UNFA Part VII Developing States Fund.

15. We will actively seek the cooperation of other States to join us in achieving our objectives set out in this Declaration.

16. We agree that officials identify practical ways to move forward on the commitments of Ministers as set out in this Declaration.

Annex 18. Discussion Paper - The NAFO Convention in the context of recent developments concerning ocean governance

(presented by Norway)

In recent years, many initiatives have been taken to address the conservation and management of the marine ecosystems on the high seas, both by States, intergovernmental organisations and non-governmental organisations. The UN General Assembly annually addresses fisheries issues, among other things calling upon regional fisheries management organisations (RFMOs) to address specific topics in order to achieve sustainable fisheries within their areas of competence. In particular it should be mentioned that the UN General Assembly has urged RFMOs to prohibit destructive fishing practices which have adverse impacts on vulnerable ecosystems, including seamounts, hydrothermal vents and cold water corals in areas beyond national jurisdiction. Further the World Summit on Sustainable Development (WSSD) 2002 in Johannesburg agreed on a detailed “Plan of Implementation” that includes a number of provisions regarding international and high seas fisheries (Articles 30 to 36), among them the establishment of marine protected areas (MPAs), including representative networks. The Convention on Biological Diversity (CBD) is also addressing MPAs in marine areas beyond national jurisdiction and has established an Ad Hoc Open-ended Working Group on Protected Areas. Thus there are new demands and expectations concerning the performances of RFMOs. In addition there are now available several tools for regional bodies, which were absent when the NAFO Convention was concluded 25 years ago.

Concern about the impact of fishing in the marine ecosystem, including the call for an ecosystem approach are also to be found in global instruments, which are in force and thus entail legal binding obligations on parties. For example included in the preamble of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the 1995 Agreement) is that parties are “*Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations*”. Attention should be paid to Articles 5 (general principles) and 6 (application of the precautionary approach) of the 1995 Agreement. It applies, however, only to fisheries for straddling stocks and highly migratory stocks, and is thus not applicable to so-called discrete stocks, i.e. stocks that exclusively occur in high seas areas. Even though some of the stocks on the high seas of NAFO-area are discrete stocks, others are straddling between the EEZs of Contracting Parties and the high seas. For management purposes it might be difficult to separate the two. Of particular interest concerning fishing in vulnerable areas are Article 5 (g) calling for the protection of the biodiversity in the marine environment and Article 6, paragraph 1 calling on States to apply the precautionary approach “to protect the living marine resources and preserve the marine environment”. Complementary voluntary responsibilities are set out in the FAO Code of Conduct for Responsible Fisheries, which is global in scope and applies to all fishing activities.

From a fisheries perspective it is of course important to sustain marine ecosystems whose living resources can provide food and serve as a basis for income for present and future generations. It is recognised that healthy, well functioning and productive ecosystems will provide optimal levels of production for harvesting. In general there is misconception that fisheries constitute a major environmental problem. In fact, other human activities in the oceans pose major threats to viable fisheries and especially food security. Thus fishing is the only human activity at sea that is dependent on healthy ecosystems and clean oceans. Of course fisheries cannot avoid having an impact on marine ecosystems in the process of harvesting. A management target would thus be to obtain the maximum benefit from harvesting without reducing the future value of the resources and the marine environment in general. In order to achieve this objective, scientific management advice should of course incorporate ecosystem information into stock assessments and forecasts and advice on improved fishing methods in order to reduce negative effects on ecosystems.

As mentioned above the UN General Assembly last year adopted a resolution concerning sustainable fisheries, which also addresses responsible fisheries in the marine ecosystem. In paragraphs 66 and 67, the resolution

“Calls upon States, either by themselves or through regional fisheries management organizations or arrangements, where these are competent to do so, to take action urgently, and consider on a case-by-case basis and on a scientific basis, including the application of the precautionary approach, the interim prohibition of destructive fishing practices, including bottom trawling, which has adverse impacts on vulnerable marine ecosystems, including

seamounts, hydrothermal vents and cold-water corals located beyond national jurisdiction, until such time as appropriate conservation and management measures have been adopted in accordance with international law; and Calls upon regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to urgently adopt, in their regulatory areas, appropriate conservation and management measures, in accordance with international law, to address the impact of destructive fishing practices, including bottom trawling, which has adverse impacts on vulnerable marine ecosystems, and to ensure compliance with such measures”.

It should be noted that the UN General Assembly has agreed to review within two years progress on actions concerning bottom trawling, with a view to further recommendations, where necessary, in areas where arrangements are inadequate. In addition several non-governmental organisations and some states actually call for a global ban on bottom trawling on the high seas (UN resolution similar to that on the global moratorium on large-scale pelagic drift-net fishing on the high seas).

FAO’s Committee on Fisheries (COFI) addressed the issue of deep-sea fisheries at the meeting in March this year. The Committee, among other things, called upon Members conducting deep sea fisheries on the high seas individually and in cooperation with others to address adverse impacts on vulnerable ecosystems and to sustainably manage the fishery resources being harvested including through controls or limitations on new and exploratory fisheries.

In the ministerial declaration from the Conference on the Governance of High Seas Fisheries and the UN Fish Agreement, which was held in St. John’s, Canada in May this year, the ministers recognised that RFMOs today face new challenges and responsibilities. It is recognised that while the governance of some RFMOs has been improved by incorporating the principles and provisions of newly developed international instruments and tools, including those related to ecosystem considerations in fisheries management, other RFMOs remain to be improved and to further strengthen and modernise RFMOs to ensure that such challenges and responsibilities are effectively addressed.

1. The current legal situation

Article 68 of the 1982 UN Law of the Sea Convention (the LOS Convention) specifies that Part V does not apply to sedentary species as defined in Article 77, paragraph 4. It thus appears to except such species from the rules of Part V on foreign access, requirements to ensure rational conservation and optimum utilisation and the obligation to co-operate with other states as regards shared stocks. Several regional fisheries management organizations, such as NEAFC, thus exclude sedentary species, from its scope of application, in accordance with article 77, paragraph 4. It could, however, be argued that there is no reason why general obligations relating to sustainable management, use and conservation set out in the LOS Convention should not apply to these species as well, since this is a dominant theme throughout the Convention.

Sedentary species and habitats occurring outside the EEZs will, in so far as they are found on the continental shelf as defined in Article 76 of the LOS Convention, also come within the scope of the sovereign rights and continental shelf jurisdiction of the coastal State in accordance with Part VI. The Commission on the Limits of the Continental Shelf set up under Annex II of the LOS Convention has only recently started reviewing submissions for the establishment of the limits of the continental shelf beyond 200 nautical miles, and no States Parties are under any obligation to make such submissions until 2009 at the earliest. The process of delimiting the areas of extended continental shelf that will be under national jurisdiction is therefore likely to take many more years.

High seas fishing is in principle open to all States, see Article 87 of the LOS Convention. However, Article 87 also states that this freedom must be exercised with due regard for the interests of other States and also with due regard for the rights under the Convention with respect to activities in the Area. Section 2, Part VII, of the LOS Convention (Articles 116-119) states that the right to engage in fishing on the high seas is further subject to treaty obligations, and to the rights and duties as well as the interests of coastal States (see for example Article 63, paragraph 2, and Articles 64 to 67 of the Convention).

States further have obligations to take such measures with respect to their respective nationals as may be necessary for the conservation of the living resources of the high seas (Article 117) and to co-operate with other States in

conservation and management of these resources (Article 118). Moreover, the LOS Convention obliges coastal States and other States that fish for highly migratory species to co-operate directly or through appropriate international organisations with a view to ensuring conservation and promoting the objective of optimum utilisation of highly migratory species throughout the region, both within and beyond the EEZ of the coastal State, see Article 64 of the LOS Convention. In regions where no appropriate international organisation exists, the States concerned are obliged to co-operate to establish such an organisation and to participate in its work. These provisions apply to all living resources, including species that are not sedentary as defined in Article 77 of the LOS Convention. The 1995 Agreement further defines and elaborates these obligations with respect to straddling stocks and highly migratory stocks.

Species and ecosystems outside the extended continental shelf as defined in the LOS Convention Article 76 are by definition in the “Area”, which is to be managed by International Seabed Authority (ISA) in accordance with Article 134, paragraph 4, and Article 136 of the LOS Convention. ISA’s competence applies to all “resources” in the Area, meaning “all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules”. In extracting resources from the Area and with respect to all other activities, the Authority is obliged to take all “necessary measures to ensure effective protection for the marine environment from harmful effects which may arise from such activities” and shall adopt appropriate rules, regulations and procedures for “the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment”.

It is questionable, however, whether the Authority has the mandate and the competence to manage the living marine resources of the Area. It is also quite clear that the rules and regulations pertaining to the Area do not have any effect on the legal status of the waters superjacent to the Area, see Article 135, but some habitats and ecosystems are found in the subsoil under the Area, and here the situation appears to be less clear.

Article 8, paragraph a, of the CBD requires Parties as far as possible to “establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity”. A protected area under CBD differs from “a particularly clearly defined area”, as mentioned in Article 211, paragraph 6, of the LOS Convention, and is understood to be “a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives”, see Article 2. At the same time it is clear that with regard to the marine environment, the rights and obligations set out in the CBD must not be in conflict with those laid down in the LOS Convention, see Article 22, paragraph 2. The establishment of protected areas in the high seas would appear to be in conflict with the prohibition of the LOS Convention Article 89, under which “no State may validly purport to subject any part of the high seas to its sovereignty”. Equally, Article 137, paragraph 3, of the LOS Convention states that no claim, acquisition or exercise of any rights with respect to minerals recovered from the Area by any state or natural or juridical person shall be recognised. Furthermore, it is quite clear that no marine scientific research activities can constitute the legal basis for any claim to any part of the marine environment or its resources. It would thus appear that while States may undertake to designate protected areas under Article 8, paragraph a), of the CBD in areas under their jurisdiction and in accordance with the LOS Convention, before such areas can be established on the high seas, there is a need to examine the existing legal framework, and the UN General Assembly has taken initiatives in this regard.

2. Relevant terms used in some global instruments

The term “fish” is defined in the 1995 Agreement to include molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the LOS Convention. It could be argued that “fish” and “fishery resources” are equal terms.

The term “living marine resources” is used quite frequently, cf. Articles 1, 6, 7, 11, 24 and 30 of the 1995 Agreement and the preamble, article I and article IX of the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement). It should be mentioned that the LOS Convention refers to “living resources”, cf. for example section 2 of part VII (Conservation and management of the living marine resources of the high seas). The inclusion of the word “marine” first appeared in Agenda 21 where States committed themselves to the conservation and sustainable use of marine living resources on the high seas. It seems like, in some cases at least, that the terms “living marine resources” and “fishery resources” are equal. For example is a “fishing vessels” defined in the Compliance

Agreement to mean any vessel used for exploitation of living marine resources, thus defining “fishing” to be harvesting of marine living resources. But this is probably not intentional. The term “living marine resources” has a broader application than “fishery resources” as it would for instance include aquatic plants, corals and sponges.

The term “conservation and management measures” is defined in the 1995 Agreement and in the Compliance Agreement to be measures to conserve and manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the LOS Convention, cf. Article 1 of the 1995 Agreement and Article I of the Compliance Agreement.

3. Mandates of other RFMOs

Just a few RFMOs have the competence to regulate bottom fisheries, among them NAFO. Others are the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the North East Atlantic Fisheries Commission (NEAFC) and the South East Atlantic Fisheries Organization (SEAFO). Work has recently been concluded concerning the establishment of the Southern Indian Ocean Fisheries Agreement (SIOFA) with the competence to regulate also bottom fisheries in the Southern Indian Ocean. There are several other RFMOs with mandates to regulate highly migratory species such as tuna and swordfish, thus dealing only with fishing activities in the upper layer of the water column.

Further some RFMOs have included in their mandates references to an ecosystem approach to management, including the protection of the marine biodiversity.

3.1 CCAMLR

Concerning application, Article I of the CCAMLR Convention states the following:

- ”1. *This Convention applies to the Antarctic marine living resources of the area south of 60° south latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.*
2. *Antarctic marine living resources means the population of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.*
3. *The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.*

The objective and general principles are referred to in Article II, which read as follows:

- “1. *The objective of this Convention is the conservation of Antarctic marine living resources.*
2. *For the purposes of this Convention, the term “conservation” includes rational use.”*
3. *“any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles:*
 - a) *prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensure the greatest net annual increment;*
 - b) *maintenance of the ecological relationship between harvested, dependent and related populations of Antarctic marine living resources and the restoration of deleted populations to the level defined in subparagraph a) above; and*
 - c) *prevention of changes or minimisation of the risk of changes in the marine ecosystem which not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources”.*

3.2 SEAFO

The Convention defines some terms in Article 1, among them “fishery resources” and “living marine resources”. For the purpose of the Convention:

“Fishery resources” means resources of fish, molluscs, crustaceans and other sedentary species within the Convention Area, excluding (i) sedentary species subject to the fisheries jurisdiction of coastal States pursuant to article 77 paragraph 4 of the 1982 Convention; and (ii) highly migratory species listed in Annex I of the 1982 Convention, and

“Living marine resources” means all living components of marine ecosystems, including seabirds.

Pursuant to Article 2 the objective is:

“To ensure the long-term conservation and sustainable use of the fishery resources in the Convention Area through effective implementation of this Convention”

The general principles are included in Article 3, which reads:

“In giving effect to the objective of this Convention, the Contracting Parties, where appropriate through the Organisation shall, in particular:

- a) adopt measures, based on the best scientific evidence available, to ensure the long term conservation and sustainable use of the fishery resources to which this Convention applies;*
- b) apply the precautionary approach in accordance with article 7;*
- c) apply the provisions of this Convention relating to fishery resources, taking due account of the impact of fishing operations on ecologically related species such as seabirds, cetaceans, seals and marine turtles;*
- d) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem as, or associated with dependent upon, the harvested resources;*
- e) ensure that fishery practices and management measures take due account of the need to minimise harmful impacts on living marine resources as a whole; and*
- f) protect biodiversity in the marine environment.”*

3.3 SIOFA

Interested parties have on 22nd April this year agreed on text for an agreement concerning the management of fishery resources in the Southern Indian Ocean, the Southern Indian Ocean Fisheries Agreement (SIOFA). The parties agreed to convene a Diplomatic Conference at the earliest possibility and at the latest by January 2006 to officially adopt and open for signature the Agreement.

Pursuant to Article 1 (definitions) of the agreed text “fishery resources” means:

resources of fish, molluscs, crustaceans and other sedentary species within the Area, but excluding:

- (i) sedentary species subject to the fishery jurisdiction of coastal States pursuant to article 77 paragraph 4 of the 1982 Convention; and*
- (ii) highly migratory species listed in Annex I of the 1982 Convention;*

Article 2 sets out the objectives of the Agreement and reads as follows:

The objectives of this Agreement are to ensure the long term conservation and sustainable use of the fishery resources in the Area through cooperation among the Contracting Parties, and to promote the sustainable development of fisheries in the Area, taking account of the needs of developing States bordering the Area that are party to this Agreement, and in particular the least-developed among them and small island developing States.

Further in Article 4, the general principles of the Agreement are as follows:

“In giving effect to the duty to cooperate in accordance with the 1982 Convention and international law, the Contracting Parties shall apply, in particular, the following principles:

- a) measures shall be adopted on the basis of the best scientific evidence available to ensure the long term conservation of fishery resources, taking into account the sustainable use of such resources and implementing an ecosystem approach to their management;*
- b) measures shall be taken to ensure that the level of fishing activity is commensurate with the sustainable use of fishery resources;*
- c) the precautionary approach shall be applied in accordance with the Code of Conduct and the 1995 Agreement, whereby the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures;*
- d) the stocks shall be managed so that they are maintained at levels that are capable of producing the maximum sustainable yield, and rebuild depleted stocks to the said levels;*
- e) fishing practices and management measures shall take due account of the need to minimize the harmful impact of fishing activities may have on the marine environment;*
- f) the need to protect biodiversity in the marine environment;*
- g) the special requirements of developing States bordering the Area that are party to this Agreement, and in particular the least-developed among them and small island developing States, shall be given full recognition.”*

3.4 NEAFC

The NEAFC-Convention applies to *“all fishery resources in the Convention Area with the exception of sea mammals, sedentary species, i.e. organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil and, in so far as they are dealt with by other international agreements, highly migratory species and anadromous stocks.”*, cf. Article 1, paragraph 2. Species that are sedentary form part of the natural resources referred to in Part VI of the LOS Convention, which consist of mineral and other non-living resources of the seabed and subsoil, as well as living organisms belonging to sedentary species. The definition of sedentary species in Article 77 of the LOS Convention is equal to the definition appearing in the NEAFC Convention. Examples of such organisms are bivalves such as oysters and mussels, sea anemones and attached algae. According to Article 1, paragraph 2, there is a general exception for sedentary species in NEAFC. In NAFO, SEAFO and in the draft for SIOFA, the exceptions are related to sedentary species as referred to in Article 77 of the LOS Convention (rights of coastal States over the continental shelf). Thus the NEAFC Convention does not apply to sedentary species living either on or off the continental shelves in the Regulatory Area.

NEAFC has agreed to play a more proactive role in the international processes addressing overall ocean management. At the same time NEAFC has problems of adopting adequate management measures for deep-sea species. To move forward on the issue of deep-sea species and at the same time addressing concerns expressed by the international community, Norway suggested protecting some vulnerable habitats by closing them for bottom fishing. NEAFC agreed in November last year to close five seamounts on the high seas for three years to bottom trawling and static gear, so as to protect vulnerable deep-water habitats. The criteria used by Norway for proposing areas was partly information from historical or present fisheries, and random selection of reference localities based on knowledge of bathymetry and fauna.

Work is now going on within NEAFC with the aim of amending the Convention focussing on responsible fishing in the marine ecosystem and NEAFC's role as the competent authority in this regard. This also implies possible amendments required for managing impact not only on targeted stocks but also other impacts of fisheries on the

marine ecosystem. A working group met in Brussels on the 28th of June and agreed on a text that will be examined and hopefully adopted by the Commission at its annual meeting in November. The suggested amendments to the NEAFC Convention include an update of the preamble, additional and amended definitions, a new article concerning the objectives and a new article on implementation of these objectives.

4. Possible restrictions of the NAFO Convention

In accordance with Article I, paragraph 4, the NAFO Convention applies to:

“all fishery resources of the Convention Area, with the following exceptions: salmon, tunas, marlins, cetacean stocks managed by the International Whaling Commission or any successor organization, and sedentary species of the Continental shelf, i.e., organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.”

The objective of the Convention is to *“contribute through consultation and cooperation to the optimum utilization, rational management and conservation of the fishery resources in the Convention Area”*, cf. Article II, paragraph 1.

NAFO consists of a General Council, a Scientific Council, a Fisheries Commission and a Secretariat. The Fisheries Commission is responsible for the management and conservation of the fishery resources in the Regulatory Area (i.e. areas beyond the limits of fisheries jurisdiction of Contracting Parties), cf. Article XI, paragraph 1 of the Convention. The functions of the Commission are set out in paragraph 2 of Article XI and reads as follows:

“The Commission may adopt proposals for joint action by the Contracting Parties designed to achieve the optimum utilization of the fishery resources of the Regulatory Area. In considering such proposals, the Commission shall take into account any relevant information or advice provided to it by the Scientific Council”.

Where the general objective of NAFO is to contribute through consultation and cooperation to the optimum utilization, rational management and conservation in the Convention Area, cf. Article II, paragraph 1, the regulating power of the Fisheries Commission concerning the Regulatory Area is related only to the optimum utilization of the fishery resources.

NAFO has of course the competence to close areas in the Regulatory Area for fishing activities (for example trawling), cf. Article XI, compared with Article I, paragraph 4 of the NAFO Convention. The competence is thus limited to actions related to “fishery resources” as defined in Article I, paragraph 4 and the purpose shall be related to optimum utilization of those resources. Consequently the Fisheries Commission seems not to have a clear mandate to establish for example MPAs in order to protect seamounts, hydrothermal or cold-water corals as such. The justification for any action must therefore be that this is related to the optimum utilization of the fishery resources in the Regulatory Area, cf. Article II, paragraph 1 of the NAFO Convention.

However, seamounts are rich and unusual deep-sea biological communities that support unique and endemic faunas, representing large pools of undiscovered biodiversity in the oceans. The biology and ecology of seamounts have been discovered and studied only in recent years. Although relatively few seamounts have been sampled comprehensively, this research has shown that seamounts may be sites of speciation, refuges for rare species, and stepping-stones for distribution. Thus actions might be justified on this basis, and this was the approach taken by NEAFC when five seamounts were closed last fall.

Compared to for example CCAMLR, SEAFO and the newly agreed text for SIOFA, there seems to be shortcomings in the NAFO Convention in order to address management of the oceans in a wider perspective. The main concern is related to the scope and object of the Convention. However, if the NAFO Parties “agree to agree”, there is probably sufficient space for a possible interpretation in the Convention itself. But from a legal perspective possible recommendations concerning for example closures of areas to protect corals etc could be challenged. Further, compared to some of the other RFMOs, in particular those negotiated after the 1995 Agreement, the objective might seem a little bit too general. On the other hand, such a limited scope and rather general objective might give the Fisheries Commission the flexibility required to take any action deemed necessary.

**Annex 19. Discussion Paper - Modernization of Regional Fisheries
Management Organizations**
(presented by Canada)

I. INTRODUCTION

In order to provide background to the discussion at the General Council meeting on agenda item 11 – *Modernization of Regional Fisheries Management Organizations – A Proposal for NAFO*, this paper provides a rationale for reviewing and strengthening¹* NAFO, outlines possible directions that Contracting Parties may consider for strengthening NAFO and suggests the possible means to launch the reform process. The Annex to the paper outlines some of the issues involved in examining each of the key areas of reform.

The Challenge

Under existing international law, sub-regional and regional fisheries management organizations and arrangements (RFMO/As) are charged with the primary role regarding the governance of high seas fisheries and are generally believed to represent the most effective means of cooperating in the conservation of high seas fish stocks. Good governance and management by RFMO/As must necessarily contribute to ensuring effective long-term conservation and sustainable use of high seas fish stocks.

It has been recognized globally, at the political level, however that many RFMO/As today face challenges and responsibilities not envisaged at the time of their institution, thereby contributing to lacunae with respect to governance.

The decline in fish stocks has been well documented in the FAO report entitled *The State of World Fisheries and Aquaculture*. Currently, while 25% of global fish stocks could withstand further fishing effort, 50% are fully subscribed and 25% are considered to be over-exploited. The NAFO Convention, in addition to many other instruments establishing RFMO/As², reflects mandates and practices from a time when resource abundance and ecosystem productivity could meet the demands of *existing* technology, fishing capacity and effort. In other words, governance regimes reflected a mindset of optimal utilization.³

The NAFO Convention Area comprises the waters of the Northwest Atlantic Ocean as defined in Article I of the NAFO Convention, which includes the historically abundant and productive ecosystem of the Grand Banks of Newfoundland and Labrador. NAFO manages twenty fish stocks (nineteen listed in the annual quota table which are managed by TAC and quotas, and one which is managed by an effort limitation scheme) of which ten of the stocks have been under moratoria for a number of years. Many of the groundfish stocks on the northern and southern Grand Banks declined in the 1980s and early 1990s and have not recovered.

Fishing nations around the world have a vested interest in ensuring the long-term sustainability of their fisheries because of the important economic benefits they bring. Globally there are 35 million workers employed in fishing or in breeding fish on farms. The international trade in seafood is valued at US\$56 billion annually. The demand for seafood products doubled in the last thirty years and is expected to continue growing 1.5% annually through 2020, driving prices up further and providing greater incentives to harvest fish stocks beyond their sustainable level.

Governments face pressure from internal and external sources to better manage fish stocks and their ecosystems to ensure their conservation and sustainable use. Governments are also facing increased pressures from their fisheries industries, their own citizens, in international fora as well as from environmental non-governmental organizations on the need for better management and biodiversity protection.

¹ In keeping with commitments of St. John's Conference Ministerial Declaration, Operative Paragraph 4; also note that efforts to review and strengthen are linked directly to modernizing the Organization, in part through fully and effectively implementing existing instruments and tools, as required.

² Notable exceptions including Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), South East Atlantic Fisheries Organization (SEAFO), and Southern Indian Ocean Fisheries Agreement (SIOFA)

³ The term "optimum utilization" is included among the objectives in Article II of the NAFO Convention.

Governments are responding to these challenges and taking steps to ensure the sound management and responsible use of fisheries and the protection of oceans on a national basis. In Canada, the Government has begun to reform its governance regime by introducing new legislation and policies, by funding and undertaking new scientific research, by incorporating new tools such as the precautionary approach and the ecosystems approach to fisheries management, and by working together with its fishers to introduce the necessary changes. This is bringing about a fundamental change in Canada's approach to achieving sustainable, conservation-based commercial fisheries and the protection of our oceans.

International Consensus and Political Will

While the governance regimes of certain RFMO/As have been improved in recent years by incorporating the principles and provisions of newly developed international instruments and tools within the agreed decision-making processes, there remains a need to translate political will and to further strengthen and modernize RFMO/As to ensure that they discharge their responsibilities effectively.

Recent events are indicative of an international momentum and reflect a strong political will to improve and strengthen RFMO/As and to move from "words to action". At the 2002 World Summit on Sustainable Development (WSSD), world leaders agreed on a broad Plan of Implementation to reinforce the existing international obligations and action to be taken in a number of areas including fisheries for achieving sustainable development. The WSSD commitments reinforced the need for renewed efforts to transform fisheries management regimes globally. The WSSD was followed by several Ministerial level meetings and initiatives which include the Ministerial High Seas Task Force on IUU Fishing, the FAO Ministerial Meeting of March 2005 in Rome, the St. John's Conference hosted by Canada in May 2005 and the North Atlantic Fisheries Ministers Conference hosted by the Faroe Islands in May 2005.

Strong Ministerial commitments have expressed the basis of an international momentum to address high seas governance and to reform RFMO/As. Ministers agreed to fully implement the key international fisheries instruments directly and in RFMO/As, broaden the mandates of RFMO/As to implement the ecosystems approach and the precautionary approach, improve decision-making processes in RFMO/As and strengthen monitoring, control and surveillance regimes. Ministers further agreed that now is the time to act and that members of RFMO/As are ultimately accountable for the results achieved. At the North Atlantic Fisheries Ministers Conference, Ministers agreed to report back next year on progress achieved in strengthening NAFO and NEAFC.

Internationally, there is also growing consensus that a critical element of the solution for addressing effective resource and oceans management lies with the governance regimes currently in place for many high seas fisheries. RFMO/As and their members also recognize that this is a matter of restoring international confidence and credibility in their organizations and they are beginning to make fisheries management reform and modernization a priority. They need to demonstrate that improvements to fisheries management are contributing to the sustainable management of the resource. This effort needs to accompany the existing efforts underway across all our countries to implement national reforms.

Significant efforts have been made by NAFO members to address issues as they arise. However reviewing and strengthening governance will necessitate a more holistic assessment of the Organization as a whole. It is also worthwhile to note that the fisheries governance agenda is increasingly being subsumed by interests within the United Nations and other numerous fora under a broader oceans agenda that brings with it a broader set of stakeholders with increasingly diverse interests. Under the drive of an increasingly multinational environmental conservation lobby, for example, pressures are being asserted for RFMO/As to begin the implementation of ecosystems and precautionary approaches to the conservation and management and management of fisheries and to address over-capacity and adjust fishing effort commensurate with available fishing opportunities. Without marked and measurable progress, there is a growing concern these international fora could take over the agenda and propose blunt instruments to achieve their objectives, particularly under the auspices of "destructive fishing practices".

It is timely for a discussion to take place at the 2005 NAFO annual meeting with a view to establishing an agreed process for addressing the gaps and how to bridge them in a measurable framework.

II. STRENGTHENING NAFO

Within NAFO, the paramount objective should be to halt the collapse of currently compromised stocks, to undertake all efforts to support their rebuilding and to update the Organization to reflect the most modern standards and benchmark in fisheries conservation and ecosystem management. Underpinning these objectives will require NAFO members to cooperate to modernize and strengthen the governance regime currently in place, thereby reforming NAFO.

Since 1995, NAFO has undertaken a number of improvements. These include:

NAFO Conservation and Enforcement Measures:

- the overhaul of the NAFO Conservation and Enforcement Measures,
- the adoption of the Greenland Halibut Rebuilding Plan,

Monitoring, Control and Surveillance:

- the adoption of a suite of improvements including 100% observer coverage and the requirement for vessel monitoring systems on all fishing vessels in the NAFO Regulatory Area,
- the joint assessment of compliance at NAFO annual meetings,
- the pilot project on Observers, Satellite Tracking and Electronic Reporting,
- the Scheme to Promote Compliance by Non-Contracting Party Vessels,

Organization/Decision-Making

- the adoption of rules to improve transparency and allow the greater participation of non-governmental organizations,
- modernization and continuing improvements in the management of the Secretariat,
- the adoption of a NAFO media policy,
- the preliminary operationalization of the Precautionary Approach through the pilot application to two stocks, and
- the consensus reached by Chairs of General Council, Fisheries Commission and Scientific Council to improve the functioning and scheduling of the annual meeting beginning in September 2005.

Other than organizational and decision-making reforms, many improvements have focused on addressing non-compliance. However most measures are fairly recent, and have not yet resulted in substantive change in behavior on the high seas. Non-compliance remains high because the consequences of cheating remain well within “the cost of doing business”, and capacity reductions have lagged behind agreed upon reductions, particularly for Greenland halibut. Other challenges remain to be addressed. Decision-making processes lack transparency and lead to a disenfranchisement for some Contracting Parties. Claims to higher quotas or different sharing of allowable catches remain unaddressed and implementation of some of the broader principles of better fisheries management (such as the precautionary approach and the ecosystem approach to fisheries management) remain fragmented and very slow.

Considerations for Process

Strengthening, renewing and updating NAFO will require a strategic, integrated and intensive review of the current challenges in the Northwest Atlantic, and implementing reforms on a comprehensive and fundamental level. Close collaboration among Contracting Parties will be required. Collectively, we need to determine the actions and mechanisms that are required to protect and rebuild the resources, to restore the productivity of the oceans, and to manage emerging issues (i.e. protection of vulnerable habitats, deep sea stocks).

The September annual meeting is an opportune time for Contracting Parties to respond to the St. John’s Ministerial Declaration. This is the first meeting of a Regional Fisheries Management Organization since the St. John’s Conference. NAFO, despite its shortcomings, is regarded by many as among the principal RFMO/As in the world, and therefore Contracting Parties should take a leadership role in responding positively and concretely to the Ministerial Declaration to ensure that NAFO remains in the forefront of modern RFMO/As.

It is proposed that NAFO launch this process on a comprehensive and urgent basis beginning at its September 2005 annual meeting. Guided by the framework of the Ministerial Declaration, the process could begin with identifying critical gaps in governance, examining possible actions and mechanisms for bridging them, and then establishing a timeframe for modernization, milestones for achieving actions and respective priorities.

The Ministerial Declaration of the St. John's Conference was signed by nineteen Ministers from around the world, including Ministers from seven of the NAFO Contracting Parties representing the holders of most of the NAFO quotas. The Declaration presents an overarching, shared vision for sustainable fisheries and for securing a sustainable economic future and outlines a shared vision for reforming high seas fisheries governance. It sets out specific goals that Ministers want to achieve and outlines how the global community may achieve them.

Included in the Declaration are comprehensive commitments to act to modernize RFMO/As, through implementation of the tools and instruments developed in the last decade. The Declaration identifies three key areas for improving and strengthening RFMO/As: Conservation and Management of Stocks; Decision-making Process; and, Monitoring, Control and Surveillance. Some of the issues involved in examining each of these key areas are outlined in the attached **Annex**.

It is recognized that addressing these issues will be complex and time-consuming. Given the cross-cutting nature of the issues, the process that we envisage is of a holistic nature that should not be undertaken in a piece-meal fashion or within narrowly mandated committees. It is evident that a dedicated process – separate from the annual meeting - would allow Contracting Parties to focus specifically on reform.

It is currently a challenge to complete the ordinary business of NAFO within the constraints of the five-day timeframe of an annual meeting. The annual meeting is considered by many to be fully subscribed with the work of existing bodies, committees, various meetings among heads of delegation, other experts as well as national delegations. While the approach of an intersessional meeting is not necessarily favoured by Contracting Parties given that it involves additional work and travel, intersessional meetings have often been used by NAFO to give the necessary attention to a particular issue. Moreover, trying to achieve a holistic review and change will require much longer than if it is attempted to undertake discussions under a specific agenda item during annual meetings. Given the busy schedule of the annual meeting, it would appear that an intersessional meeting is required to give special attention to achieving an integrated review and analysis for strengthening NAFO.

In view of these considerations, it is proposed that Contracting Parties establish a Working Group on the Modernization of NAFO, with agreed terms of reference, which is to meet intersessionally in 2006 and 2007, achieve certain milestones and report back with its recommendations to General Council and the Fisheries Commission. It is envisaged that an interim report would be provided at the 2006 annual meeting and a final report at the 2007 annual meeting. The proposed modernization process should take into account the other ongoing work of other NAFO bodies, such as the Scientific Council, STACTIC and STACFAC that have led to the improvements described above. The process should engage the relevant bodies on aspects of reform within the overall framework and direction of the Working Group to ensure overall coherence.

Other Considerations

Examples of how to modernize NAFO may be taken from other areas of the world. Other RFMOs have been recently modernized (i.e. the Inter-American Tropical Tuna Commission, the North East Atlantic Fisheries Commission), while new ones have been created (i.e. the Western and Central Pacific Fisheries Commission, SEAFO, SIOFA).

The reform of NAFO should emphasize the need for all States which have the right to fish on the high seas to meet their duties to cooperate in the management and conservation of straddling fish stocks and their duties to control the activities of vessels flying their flag. It should also emphasize the rights, duties and interests of coastal states in relation to the conservation and management of straddling fish stocks, mindful of the coastal State's rights, duties and interests in relation to the resources of the Continental Shelf.

While modernization of NAFO is key to improving the conservation and management regime in place, it should not be used to postpone or stall actions or decisions required to protect and conserve the NAFO resources and their

ecosystems. There may be a need to implement measures, even in a temporary way, until reforms are in place to help guide improved decisions. As well, NAFO Contracting Parties should consider implementing any agreed package on a provisional basis, until steps can be taken by individual Parties to seek and obtain internal approvals and ratifications.

III. SUMMARY

Recent events reflect an international momentum and political will to improve and strengthen RFMO/As and to restore international confidence in RFMO/As. In order to respond to these challenges from Ministers, many of whom have agreed to report back on progress, and from the international community, NAFO Parties, as a collective, need to show leadership and begin a process of modernizing the Organization to better conserve and manage fish stocks of the Northwest Atlantic and their ecosystems.

It is proposed that NAFO launch this process on a comprehensive and urgent basis beginning at its September 2005 annual meeting. Given the cross-cutting nature of the issues, the process envisaged should be undertaken in a holistic fashion. As this is a complex exercise which will require a strategic, integrated and an intensive examination, it will require more dedicated time than that available during the NAFO annual cycle of meetings. A Working Group that meets intersessionally to address this matter in a strategic and focused manner would appear to be required.

Contracting Parties should agree to establish a Working Group on the Modernization of NAFO, with agreed terms of reference, which is to meet intersessionally in 2006 and 2007, achieve certain milestones on modernization and report back with its recommendations to General Council and the Fisheries Commission at the 2006 and 2007 annual meetings.

ISSUES FOR CONSIDERATION BY THE WORKING GROUP ON MODERNIZATION OF NAFO

The Ministerial Declaration of the St. John's Conference identifies three key areas for improving and strengthening RFMOs: Conservation and Management of Stocks; Decision-making Process; and, Monitoring, Control and Surveillance.

In examining these areas in greater detail, the following issues are submitted for consideration:

1. Conservation and Management of Stocks

In the Ministerial Declaration, Ministers call for decisions and a process pursuant to which they are made that relies on the best scientific information available, incorporates the precautionary approach and ecosystems considerations in fisheries management, and ensures that fishing effort is commensurate with fishing possibilities. The Declaration also urges that decisions achieve compatibility between conservation and management measures established for the high seas and those established for areas under national jurisdiction.

To accomplish this, strengthening may be required in many areas. First, the scope of information on which scientific advice is provided may need to be broader. There may be a need to broaden the scope of information collected, and the methods of collecting it so that the impacts of fishing on target stocks and dependent and associated species and ecosystems may be assessed and results provided to managers as factors to be taken into consideration in their decision-making. During the 2005 annual meeting, the Fisheries Commission could begin the process by submitting appropriate questions to the Scientific Council with these considerations in mind.

While it has been recognized that there is a need to move from single species management into a regime which factors in impacts on associated or dependent species and ecosystems, NAFO will need to determine how broad the scope of this role should be, and whether the NAFO constitutive instruments are sufficiently flexible to allow NAFO to exercise such an enhanced role. The NAFO Convention could explicitly require that these modern approaches (e.g. precautionary approach, ecosystems approach) be applied in order to better conserve and manage fish stocks in NAFO, as required by the UN Fish Stocks Agreement (UNFSA).

And while frameworks may be adopted to help guide advice provided by the Scientific Council to the Fisheries Commissions (e.g. the precautionary approach framework), decision rules (PA) and criteria (Ecosystems Approach) may be required to assist the Fisheries Commissions in taking decisions which reflect these modern approaches. Such measures are required to "operationalize" the modern tools and approaches provided by the international instruments.

When setting management regimes for specific fish stocks, it is increasingly clear that in addition to setting limits on the amount of fish that can be taken, NAFO needs to establish measures to align the fishing effort accordingly. There are far too many fishing vessels for the level of fish stocks in the NAFO Regulatory Area. Such excessive capacity and effort creates incentives to misreport catches, which leads to significant overfishing. The effort of Contracting Parties in the NRA needs to be commensurate with the level of quotas obtained from NAFO. Moreover, measures to avoid the transfer of fishing capacity to other fisheries could also be introduced, as required.

2. Decision-making Process

The St. John's Ministerial Declaration calls for improving the decision-making processes of RFMO/As by providing dispute settlement procedures and addressing post opt-out behaviour that may undermine conservation and management of the fish stocks concerned. Clearly, effective decision-making processes minimize disputes and, conversely, the existence of processes for discussion or resolution of disputes can assist in making decision-making processes, in particular the implementation of and compliance with decisions, more effective. Many modernized and new RFMO/As have adopted some form of internal review mechanism or dispute settlement procedure (DSP) or

both. The more options that exist for a Party who feels aggrieved to have a decision reviewed or revised, the less need there is for an opt-out procedure or use of one.

While the ability to opt out of RFMO/As decisions exists to protect State sovereignty, it is generally accepted that a State's behaviour following the exercise of such an opt-out procedure can result in hindering the conservation of the fisheries resources and undermining the effectiveness of the measures of the RFMO. This is particularly true in cases where a State opts out of a TAC or quota decision, and sets a unilateral quota resulting in catches which alone, or in combination with catches of other Parties in the fishery, far exceed the scientific advice for the total allowable catch for that fishery. Such post opt-out behaviour should not be accepted or tolerated by RFMOs, as they put in jeopardy the conservation and rebuilding of the fish stocks concerned, and affect any effort made by other Parties and the RFMO to conserve and manage the resource. The St. John's Ministerial Declaration has underlined the will to address such issues. This could include restricting post opt-out behaviour to measures that do not undermine or negatively affect the objectives of the NAFO measure from which the Party has opted out.

It is recognized that the opt-out procedure is often used as a means of voicing a dissatisfaction with or dissident view of a decision taken by NAFO. This may be a symptom of the fact that NAFO does not have an internal review mechanism, nor does it explicitly have a mechanism to resolve disputes. Both of these mechanisms could be provided in the NAFO Convention, as was done in the WCPFC Treaty. While Canada is of the view that a Party to UNFSA could avail itself of the dispute settlement mechanism provided by that Agreement to address disputes regarding the conservation and management of straddling fish stocks within NAFO, in the spirit of compromise, Canada has indicated on several occasions in the past, its willingness to develop dispute settlement procedures within NAFO, which mirror those provided by UNFA, apply to all NAFO stocks, bring in the substantive law provided by UNFA and do not hinder or set aside Canada's right and ability to use the UNFA procedures.

The current bracketed text that has been submitted to General Council could form the basis of a renewed discussion in light of amendments discussed in Brussels between Canada, the EU, Latvia and the United States and submitted to NAFO at the 2004 Annual Meeting. A DSP text could be achieved and adopted fairly quickly by General Council, and then set aside for incorporation into the complete package for modernizing NAFO. While incorporating binding dispute settlement procedures in NAFO requires amendments to the NAFO Convention, parties could agree to apply the procedures on a voluntary basis to disputes that may arise before the NAFO Convention is amended.

3. Monitoring, Control and Surveillance

Fish stocks have been under tremendous pressure in the northwest Atlantic, as they have elsewhere in the world. Despite efforts to control fishing, the fisheries of the NAFO Regulatory Area (NRA) have been characterized by significant compliance problems including misreporting of catches by species and area, fishing above agreed limits, use of illegal gear, excessive dumping and discarding, poor flag State control of the fishing activities of vessels, lack of appropriate and meaningful follow-up and sanctions to fishing violations, and fishing by vessels of States not party to NAFO.

It has been widely recognized that effective compliance regimes are a prerequisite for both the coastal States and distant water fishing States to ensure the conservation of straddling and highly migratory fish stocks and thereby meet the international obligation to cooperate on the conservation of these stocks. The notion of cooperation is to provide confidence that there will be compliance with these measures. Therefore, among strengthening other measures of Monitoring, Control and Surveillance (MCS), at-sea and port inspection processes as well as sanctions need to occupy central stage.

Within NAFO, it is entirely the responsibility of the flag-state to follow up on infringements or citations. While NAFO has an elaborate MCS regime in place, experience has shown that there is still room for improvement, given the timelines and differences in follow-up among Contracting Parties. To remedy the situation, improved port and at sea inspection procedures are required. General NAFO standards should also be established for flag-State application to sanction non-compliant vessels in a timely and effective manner, adequate in severity to effectively secure compliance and deter further violations.

The results of the High Seas Task Force (HSTF) on IUU fishing will be particularly relevant, in particular with respect to a framework for enhanced MCS. NAFO could also introduce closer collaboration among inspection

platforms in the NRA as well as in NEAFC. The HSTF has indicated that “Some of the intended benefits from the Network include intelligence sharing, access to databases of relevant information, access to experts in a range of disciplines, access to information on fishing vessels, rapid personal contact with officers in other countries during investigations.”

Any enforcement program on the high seas must be reinforced by an effective system for legal action. Cooperative inspection arrangements as outlined in UNFSA are essential if real deterrence is the objective. Moreover, flag States also have to demonstrate a commitment to investigate and follow up with significant administrative penalties or prosecutions when violations are detected. These need to be followed by meaningful penalties, on conviction, commensurate with the seriousness of the violations. If vessel owners regard sanctions as minor additional costs of operating, they will not be effective. Real penalties are deterrents that can lead to changes in behaviour and actual compliance. In this regard, Canada will be hosting a meeting of Experts in early 2006 to examine all possible sanctions for non-compliant behaviour and to prepare recommendations for a sanctions framework and/or guidelines on appropriate sanction levels by flag States against non-compliant vessels. The results of this deliberation could be submitted for NAFO consideration and possible adoption in 2006.

In summary, NAFO, like other RFMOs, has been struggling with non-compliance by its Contracting Party vessels and non-contracting party vessels. Improvements in the governance regime have been undertaken and implemented; however, the dismal state of fish stocks in the Northwest Atlantic requires urgent and immediate attention. It is imperative that NAFO improve monitoring, control and surveillance of fishing vessels in the NRA and address the issue of sanctions for non-compliant vessels to achieve effective deterrence.

**Annex 20. 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. Numbering of articles in this section will thus be corrected.)

**Article 1
Scope and Objectives**

1. The purpose of this Scheme is to promote compliance by non-Contracting Party vessels with recommendations established by NAFO and to prevent, deter and eliminate fishing activities by non-Contracting Party vessels that undermine the effectiveness of the Conservation and Enforcement measures established by the Organization.
2. Nothing in this scheme shall affect the sovereign rights of Contracting Parties to impose additional measures to promote compliance by NCP vessels, in accordance with international law.
3. This Scheme shall be interpreted in a manner consistent with international law, including the rights of port access in case of force majeure or distress in accordance with the United Nations Law of the Sea, and the principles, rights and obligations in WTO agreements, and be implemented in a fair and transparent manner.

**Article 2
Definitions**

(These definitions are to be inserted in Article 2 of the CEM)

1. “non-Contracting Party vessel” means any vessel not flagged to a Contracting Party, including vessels for which there are reasonable grounds for suspecting them to be without nationality.
2. “IUU fishing” means activities as defined in paragraph 3 of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing.
3. “IUU List” means the list, established pursuant to Articles 7.5 and 8 of Chapter VI, containing the particulars of vessels that have been found by the General Council to have engaged in IUU fishing.
4. “Provisional List” means the list, established pursuant to Article 7 of Chapter VI, containing the particulars of vessels that have been identified as having engaged in fishing activities, according to information received pursuant to Articles 3 to 6 or information received in reports pursuant to Article 8 of Chapter VI.

**Article 3
Sightings and identifications of non Contracting Party vessels / Presumption of NCP vessels undermining
NAFO Conservation and Enforcement Measures**

1. A non-Contracting Party vessel that has been sighted or by other means identified by a Contracting Party as engaging in fishing activities in the Regulatory Area 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 that has engaged in such activities with that vessel.
2. Information regarding such sightings or identifications 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 Organizations 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 or identified engaging in fishing activities, 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 Management Organizations 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 that are sighted engaging 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 Organizations within one business day of receiving this information, and to the Flag State as soon as possible. The non- Contracting Party vessel that 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.

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 authorized 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 Organizations through the NAFO Secretariat, and as soon as possible to the relevant flag State(s).

Article 6

Fishing activities

1. Contracting Parties shall ensure that their vessels do not receive or deliver transshipments of fish to or from a non-Contracting Party vessel referred to in Article 3 or engage in joint fishing operations with such vessels.
2. Landings and transshipments of all fish from a non-Contracting Party vessel referred to in Article 3 shall be prohibited in all Contracting Party ports, unless:
 - a) The vessel establishes that the fish subject to the NAFO convention were caught outside the Regulatory Area; or
 - b) The vessel establishes that it has applied all relevant Conservation and Enforcement Measures.
3. Contracting Parties denying landings or transshipments shall inform the vessel, the flag State of the vessel and the NAFO Secretariat of this decision.

Article 7

Notification of presumed IUU activities and establishment of a Provisional List

1. Upon receipt of information from Contracting Parties pursuant to Articles 3 to 6, the Secretariat shall enter the flag State, vessel name and letters and numbers of registration, and other identifying features of the vessel as available, on a Provisional List. The Secretariat shall place the Provisional List on a secure section of the NAFO website.

2. In addition to information submitted from Contracting Parties pursuant to Articles 3 to 6, 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 in the Regulatory Area.
3. At the same time, the Secretariat shall, in consultation with the Chair of STACFAC, advise relevant non-Contracting Parties of the vessels flying their flag that have been included in the Provisional List and provide the following information to the non-Contracting party:
 - a) the reasons for the inclusion on the Provisional List and all relevant evidence upon which inclusion of the vessel on the list is based;
 - b) a copy of the NAFO Conservation and Enforcement Measures, including this Scheme;
 - c) 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;
 - d) a request to report back to NAFO within 30 days from the date the letter is sent on the results of enquiries and/or measures it has taken in respect of the vessel or vessels concerned; and,
 - e) the dates when STACFAC and the General Council will be considering recommendations with respect to the composition of the IUU List, and an invitation to the non-Contracting Party to attend the meeting of STACFAC and the General Council as an observer, with the opportunity to further respond to the request specified in sub-paragraph d).
4. The Secretariat shall promptly provide non-Contracting Parties concerned with any additional information received pursuant to Articles 3 to 6 in respect of vessels flying their flag that have already been included on the Provisional List.
5. The Secretariat shall promptly distribute any information received from non-Contracting Parties to all Contracting Parties.
6. If a non-Contracting Party that has received information regarding one of the vessels entitled to fly its flag pursuant to paragraph 2 agrees to a listing the vessel concerned shall be transferred from the Provisional List to the IUU List.

Article 8

Establishment of the IUU list

1. STACFAC shall consider the Provisional List and as appropriate recommend to the General Council that the vessels either:
 - a) be removed from the Provisional List;
 - b) be retained on the Provisional List pending the receipt of further information; or,
 - c) be transferred to the IUU List.
2. STACFAC shall only consider vessels for inclusion on the IUU list if the period referred to in Article 7.3.d) has elapsed.
3. STACFAC shall undertake a review of the current IUU List and as appropriate recommend to the General Council that vessels are maintained thereon 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 provides satisfactory information to establish that:

- a) it has taken effective action in response to the IUU fishing in question, including prosecution and imposition of sanctions of adequate severity;
 - 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;
 - c) the vessel has changed ownership and 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 does not have any legal, financial or real interest in, or exercise control over, a vessel that is on the IUU list or any equivalent type of list established by other Regional Fisheries Management Organizations; or,
 - d) the vessel did not take part in IUU fishing.
4. The General Council shall review the recommendations made by STACFAC pursuant to this Article, and shall determine the composition of the IUU List.
 5. The Secretariat shall place the IUU List on the NAFO website. This list shall include the name and flag state of the vessel and, where available, the previous name (s), the previous flag state (s), the radio call sign.
 6. The Secretariat shall provide to relevant flag States the names of vessels on the IUU List flagged to that state.

Article 9

Follow-up action

Contracting Parties shall take all necessary measures to the extent possible in accordance with their applicable legislation, in order that:

- a) vessels appearing in the IUU List are not authorized to land, transship, refuel or re-supply, except for reason of majeure or, engage in fish processing operations or in any other activity in preparation for or related to fishing in their ports or waters under their jurisdiction;
- 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 transshipment or any other activity in preparation for or related to fishing or joint fishing activities with vessels appearing on the IUU List;
- c) the issuing of licenses 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 prohibited;
- 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, non-Contracting Parties and other Regional Fisheries Management Organizations with the aim of detecting, controlling and preventing false import/export certificates regarding fish from such vessels.

Article 10

Actions vis-a-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 Organization 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 that have not rectified their fishing activities.
3. Contracting Parties should - to the extent possible, consistent with their international obligations and in accordance with applicable legislation - restrict the export and transfer of their formerly licensed fishing vessels to non-contracting parties identified in paragraph 2.