

ANNUAL MEETING - JUNE 1967Report of Special Meeting on International Control¹NEAFC, London, 15-18 November 19661. Time and Place of Meeting

The Special Meeting of the North-East Atlantic Fisheries Commission to discuss International Control was held in London from 15th to 18th November, 1966 inclusive.

2. Delegations

Delegations attended from all fourteen Contracting States. Canada and the United States of America were also represented as observers. A list of Delegates and Observers present is at Annex A.(not included here)

3. Address of Welcome by the President

The President (Mr. David Olafsson, Iceland) welcomed delegates to the Meeting. He recalled the discussions of the Committee on International Control and those which had taken place during the Fourth Meeting of the Commission in Edinburgh. He expressed the hope that it would be possible to agree on a scheme of international control which could be brought into operation as soon as possible.

4. Adoption of Agenda

The agenda shown at Annex B was formally adopted.

5. International Control

The Commission considered the Draft Scheme of Joint Enforcement appended to the Report of the Second Session of the Committee on International Control (NC 4/43) in the light of the amendments made at the Commission's Fourth Meeting and the views expressed since then by delegations. The Commission set up a Drafting Group comprising representatives of France, Norway, U.S.S.R., U.S.A. and the United Kingdom which appointed Mr. A.J. Aglen (United Kingdom) as its Chairman. The Group prepared a redraft of the provisions of the Draft Scheme in the light of the Commission's discussions. The Drafting Group's text was considered by the Commission and a copy of the Draft Scheme revised in the light of this is at Annex C.

General

The Netherlands Delegation reminded the Commission of the reservation they had made when ratifying the Convention, about the introduction of new conservation measures and international control. Measures introduced under Article 7(1)(c) to (f) of the Convention would only be acceptable to the Netherlands if an international control system incorporating uniform methods of measuring nets and fish, sealing of offending nets and the provision of wide powers for inspectors was operative. While they could accept a compromise scheme falling short of a comprehensive system of control as a move towards efficient international control this would not automatically enable them to withdraw their reservation. The Belgian Delegation supported this viewpoint. A number of other delegations expressed willingness to accept the provisions of the Draft Scheme in principle. It was generally recognised that international control should supplement rather than supplant effective national systems and that fishermen should not be subjected to vexatious inspection. There was wide support for the view that it was important to start a scheme of international control without undue delay; this might initially contain imperfections but these could be corrected in the light of experience.

¹reproduced in part with permission of NEAFC

Preamble

During discussion the Soviet Delegation observed that use of the term "fisheries jurisdiction" would mean that the flag states' jurisdiction would extend to its vessels wherever they were even within the fishery limits of other countries. It was agreed to substitute the words "territorial waters and fishery limits" to avoid ambiguity.

Paragraph (1)

This paragraph was agreed. In order to establish the concept of mutuality in the arrangements the Soviet Delegation wished to have the words "on a mutual basis" brought into the text of the Draft Scheme but could accept their inclusion in either Paragraph (1) or Paragraph (9).

Paragraph (2)

The text prepared by the Drafting Group was agreed, subject to a reservation by the Swedish Delegation who were opposed to the use of fishing vessels for inspection purposes.

Paragraph (3)

The text of this paragraph, which reflected the meeting's decision that the document of identity should not be supplied by the Commission but should be in a form approved by it, was agreed.

Paragraph (4)

The Soviet and Polish Delegations made reservations on the provision enabling inspectors to stop vessels engaged in the treatment of sea fish and to examine the catch of fishing vessels although the latter were prepared to accept provision for examination of the catch that was on deck. The Netherlands Delegation tabled the draft of a provision which would allow an inspector to collect evidence of an infringement upon which proceedings could be based in the flag state of the fishing vessel. This was an attempt to ensure that reports of international inspectors would have equal force in proceedings, whether legal or administrative, taken in Contracting States in respect of infringements (see comment on Paragraph (8) below). The draft was amended during discussion. It received support from a minority of delegations and the modified text was put into square brackets for consideration at the next meeting.

With these reservations and amendments the paragraph was agreed.

Paragraph (5)

The text prepared by the Drafting Group, which by the Commission's direction took account of points made in the written comments of the Netherlands (NC S/2 Revise, Annex III), was agreed subject to the expression "the Commission's recommendations" being expanded to show that the provision only applied in relation to recommendations accepted by the flag state of the inspected vessel. The Commission agreed that this modification should be made, where appropriate, throughout the draft Recommendation.

Paragraph (6)

The Drafting Group's text, which reflected the view of the meeting that the provision should cover both active and passive resistance to an inspector, was agreed.

Paragraph (7)

The paragraph was agreed subject to drafting amendments if it were eventually decided to dispense with the Annex and insert its provisions in the body of the Recommendation.

Paragraph (8)

The French Delegation, supported by the Belgian and Netherlands Delegations pointed out that because of differing national legal systems reports of international inspectors would not have equal force in proceedings taken in respect of infringements in Contracting States and that this would result in inequality of treatment for fishermen. The addition to Paragraph (4) proposed by the Netherlands which would allow inspectors to collect evidence necessary for actions in respect of infringements was an attempt to overcome this difficulty however and would be acceptable to the three delegations. These delegations reserved their position on Paragraph (8) until inclusion of the addition to Paragraph (4) had been decided.

With these reservations the paragraph was agreed.

Paragraph (9)

It was agreed that this paragraph related to administrative arrangements within the Commission, that it was unnecessary and that it should be deleted.

Paragraph (10)

Most delegations favoured the retention of the original paragraph which allowed no scope for a Contracting State to decline to have its vessels inspected by the authorised officers of some other Contracting State but, if this provision was unacceptable to some countries, they were prepared to accept a compromise based upon a Norwegian suggestion which did provide some latitude in this respect. (Alternative 2 to Paragraph (9) of Annex C). The Soviet Delegation reminded the Commission of their desire that the international control scheme should be implemented on a mutual basis and proposed an alternative draft (Alternative 3 to Paragraph (9) of Annex C) which was supported by the Polish and Portuguese Delegations; they were able to accept the deletion of the first paragraph of this draft if the words "on a mutual basis" were introduced into Paragraph (1) of the Draft Recommendation. The Swedish Delegation considered that objections to the scheme could be made under Article 8 of the Convention and that no special provision need be made to enable Contracting States to withdraw from some of the obligations it imposed; they therefore reserved their position on the proposal. The Belgian Delegation considered that international control should be mandatory on all Contracting States and should mean that an authorised inspector of any Contracting State could board and inspect a vessel of any other Contracting State. The only text acceptable to them was the original and they also reserved their position.

The Commission was not able to decide this matter and it was agreed that the revised Draft Scheme should contain the three alternative texts in square brackets.

Paragraph (11)

It was agreed that this paragraph related to the Commission's administrative arrangements, that it was unnecessary and that it should be deleted.

ANNEX - INSTRUCTIONS TO INSPECTORS

General

The Commission took no final decision whether instructions to inspectors need be provided as an annex to the Recommendation but it was agreed that any provisions in the annex which merely repeated what was said in the Recommendation itself should be deleted. In Annex C to this Report the annex less the provisions deleted in accordance with this decision has been retained with the amendments agreed during the Commission's discussions.

Paragraph (1)

This residual text was agreed subject to generalisation of the provision covering the inspector's right to require assistance from the master and crew of the inspected vessel.

Paragraph (2)

Doubt was expressed whether such a self-evident provision was required but this residual text was agreed.

Paragraph (3)

This residual text was agreed.

Paragraph (4) - Net Inspections

The Commission had before it the interim views of the co-opted members of the Liaison Committee contained in paper NC S/6, which was introduced by the Chairman of the Liaison Committee, to the effect that a simple flat gauge was the most satisfactory alternative to the I.C.E.S. type and that the deficiencies of the former might be partially overcome by using the I.C.E.S. instrument as a reference gauge in the training of inspectors and by making arrangements for inspectors to compare measurements taken with the wedge-shaped gauge to help minimise operator bias. In the discussion of the merits of various types of gauge which ensued it was generally agreed that the use of more than one gauge for purposes of international control was undesirable and the majority of delegations favoured the adoption of the modified flat wedge-shaped gauge proposed by the United Kingdom (NC S/2 Revise, Annex VII). However, the Netherlands Delegation advocated the adoption of the I.C.E.S. gauge and the Soviet Delegation strongly favoured a wedge-shaped gauge used with an attached weight to ensure constant pressure.

It was agreed that mesh measurements should only be taken when a net was wet but that there was no need to specify this in the Scheme since it was covered in the Commission's existing Recommendations. As regards the scope of inspection, a large majority of delegations supported the Irish Delegation's view that inspectors should have authority to examine all nets other than those which were dry and stowed away below deck. On the sealing of nets it was agreed that a draft paragraph should be produced providing that an inspector should mark for identification any net which had apparently been used in contravention of the Commission's Recommendations and that he might also take photographic evidence.

On the basis of the views expressed in the discussion the text in Annex C was later drafted. Most delegations accepted this in principle subject to further consideration by technical experts. It was also suggested that the paragraph might be supported by an illustration of the gauge prescribed. The Soviet Delegation reserved its position on the question of the gauge to be used, the nets which might be inspected and the photographing of inspected nets. The Netherlands Delegation were prepared to accept the text if the Commission would agree to a resolution specifying that the I.C.E.S. gauge should be used as a reference gauge in training inspectors. They proposed a resolution to read:-

"In using the gauge mentioned in recommendation No.1. June 1964 the I.C.E.S. gauge shall be used as a reference gauge in the training of inspectors and enforcement officers."

The Commission agreed that the paragraph should be sub-divided and put into the revised draft in square brackets.

Paragraph (5) - Inspection of Fish

It became clear in discussion that inspection of treated fish could give rise to difficulty, and that it would generally be impossible for inspectors to determine at sea whether there had been any violation of the Commission's recommendations if the vessel was, or had been, engaged in industrial fishing. Nevertheless most delegations favoured inclusion of some provision for inspectors to examine fish on board vessels since it would be possible to detect an infringement if the vessel had not been engaged in industrial fishing and even in the latter case it would be desirable for the inspector to be able to look at the catch and, if it appeared to him that a high proportion of undersized fish of protected species was present, to notify the flag state of the fishing vessel who could arrange for inspection in the home port. The Soviet Delegation were unable to see any value in the provision and preferred it to be deleted. The Danish Delegation considered that the problem of factory ships was an important and difficult one since upon such a ship's return to port all evidence of an infringement would have been removed in the processing. The provision as drafted was the best obtainable at the present time and they favoured its retention.

The Commission agreed to retain this paragraph in square brackets for further consideration.

Inspection Damage

Several delegations considered that a provision covering the allocation of responsibility for damage done to a vessel in the course of an international inspection should be included in the Scheme. There was insufficient time for this to be discussed fully and the Commission agreed that it should be considered at the next meeting.

Standard Report Form and Phrase List

Consideration of these was deferred until the next meeting through lack of time.

6. Arrangements for the Next Meeting

The Commission agreed that a further meeting to discuss international control was essential and it was proposed that it should be held in Paris immediately prior to the Fifth Meeting. The French Delegation undertook to ascertain if accommodation would be available and to inform the Secretary who would notify Contracting States and the observers of the arrangements.

7. Preparation of Report

The Commission agreed that the drafting of this should be entrusted to the President and the Secretary.

Signed at Reykjavik on 16th December, 1966

DAVID OLAFSSON

President of the Commission

Witnessed: F.H. GOODWIN

Secretary

NORTH-EAST ATLANTIC FISHERIES COMMISSION

INTERNATIONAL CONTROL

SPECIAL MEETING OF THE COMMISSION TO BE HELD FROM
15TH TO 18TH NOVEMBER, 1966 IN LONDON
(NO.6. BURLINGTON GARDENS, LONDON W.1. AT 10.30 A.M.)

A G E N D A

1. Welcome by President.
2. Statement of Arrangements for the Meeting (NO S/1).
3. Adoption of Agenda.
4. Comments of Contracting States on the Report of the Second Session of the Committee on International Control and the proposal of the U.S.S.R. delegation in document Agenda Item 6/Paper 3 (NO S/2).
5. Draft Scheme of Joint Enforcement (Paper NO 4/43).
6. Preparation of Draft Report.
7. Any Other Business.

Office of the Commission

London S.W.1.

15th November, 1966

DRAFT SCHEME OF JOINT ENFORCEMENT

Recommendation

Pursuant to Article 13(3) of the Convention the Commission recommends the establishment of the following arrangements for international control outside territorial waters and fishery limits for the purpose of ensuring the application of the Convention and the measures in force thereunder:-

- (1) Control shall be carried out by inspectors of the fishery control services of Contracting States. The names of the inspectors appointed for that purpose by their respective governments shall be notified to the Commission.
- (2) Ships carrying inspectors shall fly a special flag or pennant approved by the Commission to indicate that the inspector is carrying out international inspection duties. The names of the ships so used for the time being, which may be either special inspection vessels or fishing vessels, shall be notified to the Commission.
- (3) Each inspector shall carry a document of identity in a form approved by the Commission and given him on appointment stating that he has authority to act under the arrangements approved by the Commission.
- (4) [Subject to the arrangements agreed under paragraph (9),] a vessel of any Contracting State employed for the time being in fishing for sea fish or in the treatment of sea fish in the Convention area shall stop when given the appropriate signal in the International Code of Signals by a ship carrying an inspector unless actually fishing, shooting or hauling, in which case it shall stop immediately it has finished hauling. The vessel shall permit the inspector, who may be accompanied by a witness, to board it. The master shall enable the inspector to make such examination of catch, nets or other gear and any relevant documents as the inspector deems necessary to verify the observance of the Commission's recommendations in force in relation to the flag state of the vessel concerned and the inspector may ask for any explanations that he deems necessary.

[In a case where it appears to the inspector that these recommendations have not been observed the master shall allow the inspector to collect evidence required in the flag state of the inspected vessel, as notified by the flag state through the Commission to the other Contracting States.]
- (5) An inspector shall limit his enquiries to the ascertainment of the facts in relation to the observance of the Commission's recommendations in force in relation to the flag state of the vessel concerned. [He may not seize any vessel or arrest any person and except as provided under paragraph (4) above may not seize any net.] He shall draw up a report of his inspection in a form approved by the Commission. He shall sign the report in the presence of the master of the vessel who shall be entitled to add or have added to the report any observations which he may think suitable and must sign such observations. Copies of the report shall be given to the master of the vessel and to the Inspector's Government who shall transmit copies to the appropriate authorities of the flag state of the vessel and to the Commission. Where any infringement of the recommendations is discovered the inspector should where possible also inform the competent authorities of the flag state, as notified to the Commission, and any inspection ship of the flag state known to be in the vicinity.
- (6) Resistance to an inspector or failure to comply with his directions shall be treated by the flag state of the vessel as if the inspector were an inspector of that state.

- (7) Inspectors shall carry out their duties under these arrangements in accordance with the rules set out in [the Annex to] this recommendation but they shall remain under the operational control of their national authorities and shall be responsible to them.
- (8) [Subject to the arrangements agreed under paragraph (9),] Contracting States shall consider and act on reports of foreign inspectors under these arrangements on the same basis as reports of national inspectors. Contracting States shall collaborate in order to facilitate judicial or other proceedings arising from a report of an inspector under these arrangements.

Alternative 1 (original text)

- [(9) Contracting States shall inform the Commission by 1st March each year of their plans for participation in these arrangements and the Commission may make suggestions to Contracting States for the co-ordination of national operations in this field including the number of inspectors and ships carrying inspectors.]

Alternative 2 (Based on Norwegian suggestion)

- [(9) Contracting States shall inform the Commission by 1st March each year of their possibilities to participate in these arrangements. The Commission may in order to co-ordinate the international inspection in the various parts of the Convention area, work out a plan concerning the number of inspection vessels and their area and season of inspection.

Provided that the control scheme shall not apply between any two Contracting States if either of them has notified the Commission to this effect.]

Alternative 3 (Soviet proposal)

- [(9) Control under these arrangements for the purpose of ensuring the application of the Convention and measures in force thereunder shall be implemented on a mutual basis by officers of fishery protection services of the respective Contracting States.

The Contracting States shall inform the Commission by 1st March every year of their possibilities in participation in such measures. The Commissioners of the Contracting States, for the purpose of co-ordinating the control system on a mutual basis in various parts of the Convention Area, shall agree among themselves upon plans comprising data related to the number of mutual inspections, officers implementing such inspections, vessels carrying such officers as well as the data regarding seasons and areas in which the inspections shall be effected.]

Annex - Instructions to Inspectors

- (1) In making his examination the inspector may ask the master for any assistance he may require.
- (2) Inspections should be made so that the vessel suffers the minimum interference and inconvenience.

Procedure for Inspection

- (3) On boarding the vessel the inspector shall produce the document establishing his identity and his right to carry out the inspection.

Net Inspections

- [(4) (i) When nets are inspected the meshes of the cod-end are to be examined with a flat gauge with parallel sides, a thickness of 2 mm. and the appropriate width made of any durable material that will retain its shape and constructed with a wedge shaped section or sections having a taper of 2 cm. in 8 cm. calibrated to measure the width of the meshes in which the section or sections are inserted. [An illustration of such a gauge is appended].
 - (ii) The appropriate width is the appropriate width prescribed in the Commission's recommendations for the type of net inspected and the area in which the inspection takes place which are in force in relation to the flag state of the vessel concerned.
 - (iii) At least 50 consecutive meshes of the cod-end running parallel to its long axis, starting at least ten meshes from the lacings, are to be examined, or the maximum number if less than 50.
 - (iv) The gauge should be inserted into the meshes when wet so as to measure the long axis of the mesh when stretched diagonally lengthwise. If the section of the gauge with parallel sides passes easily through a mesh it is not undersized.
 - (v) The number of undersized meshes and the width of each mesh examined shall be entered in the inspector's report.
 - (vi) Inspectors shall have authority to inspect all nets other than those which are dry and stowed away below deck.]
- [(5) The inspector shall affix an identification mark approved by the Commission, to any net which appears to have been used in contravention of the Commission's recommendations in force in relation to the flag state of the vessel concerned and shall record this fact in his report.]
- [(6) The inspector may photograph the net in such a way that the identification mark and the measurement of the net is visible, in which case copies of the photographs should be attached to the report.]

Inspection of Fish

- [(7) The inspector shall examine the catch and take such measurements of the fish as he deems necessary to indicate the composition of the catch as regards undersized fish. He shall report his findings, including the number of fish measured and the sizes of any fish which are undersized.]

Office of the Commission

London S.W.1.