

ANNUAL MEETING - JUNE 1968Report of the Special Meeting of the ad hoc
Committee on Trawl RegulationsLondon, 30-31 May, 1968

The Special Meeting of the ICNAF ad hoc Committee on Trawl Regulations met at Church House, London, on 30-31 May 1968 to consider the possible form of an international inspection scheme for ensuring the application of the Convention and the measures in force under the Convention, in accordance with a decision of the 1967 Annual Meeting. Since Canada was unable to provide a Chairman, as requested, it was decided that Mr. A. J. Aglen (UK) would take the Chair. Mr. W. L. Sullivan, Jr. (USA) was selected as Rapporteur.

Representatives were present from the following Member Governments: Canada, Denmark, Iceland, Norway, Poland, Portugal, Romania, Spain, USSR, UK, and USA.

The Committee had before it the following material:

1. A summary of the decision of the 1967 Annual Meeting and the documentation (ICNAF Circular Letter 68/11).
2. A copy of the scheme of joint enforcement adopted by the Fifth Meeting of NEAFC, May 1967 (Comm.Doc. 68/17, Annex I).
3. The assembled views of Member Governments regarding an international inspection scheme for ICNAF based on the scheme adopted by NEAFC. (Comm.Doc. 68/17), Annexes II-XII).
4. The report of the Sixth Meeting of NEAFC, May 1968, containing further considerations by its delegates of the NEAFC scheme of joint enforcement (Comm.Doc. 68/15).

At the suggestion of the Chairman it was agreed that the points set forth in ICNAF Circular Letter 68/11 could serve as the agenda. The Chairman reviewed the actions on this subject which had been taken at the recent NEAFC meeting. NEAFC reaffirmed the Scheme of Joint Enforcement and adopted arrangements set out in Comm.Doc. 68/15, Annex B which it hoped would overcome the difficulties to which its previous recommendation had given rise.

The Committee then had a general discussion on the suitability of the NEAFC Scheme as a basis for an international inspection scheme in the ICNAF area. The United States, whose views are set out more fully in Annex II to this report, were strongly in favour of an international inspection scheme and said they preferred a stronger scheme than the NEAFC which in their view was a minimal scheme. Portugal indicated that for the reasons set forth in Annex VIII to Comm.Doc. 68/17 it felt the need for a different scheme operated by agents of the Commission but was willing to fall in with the wishes of the majority. The USSR, whose views are recorded more fully in Annex III to this report, reaffirmed their support for the expeditious adoption by ICNAF of an international inspection scheme to supplement national inspection; but said that certain provisions of the NEAFC scheme relating to inspection of catch and inspection of nets below deck were unacceptable to them. Poland reiterated its view that inspection should be carried out on a basis of mutuality under bilateral agreements; and Poland and Romania said they shared the views of the USSR about inspection of catch and nets below deck.

In the light of the discussion the consensus in the Committee was that a scheme based on the NEAFC scheme afforded the best means of making quick progress in the introduction of international/inspection arrangements in the ICNAF area. The Committee agreed therefore to recommend that the NEAFC scheme should be adopted with such modifications as were needed to make it compatible with the ICNAF regulations subject to arrangements similar to those adopted by NEAFC, in anticipation of bilateral exceptions which are provided for in paragraph 9(ii) of the scheme, (set out in Annex B to Comm.Doc. 68/15) in order to facilitate acceptance by those countries to whom certain provisions of the scheme were objectionable.

In the light of this agreement the Committee examined the NEAFC scheme paragraph by paragraph and identified the alterations needed to suit ICNAF conditions, noting that it was desirable to keep these to the minimum in order that so far as possible the schemes on both sides of the Atlantic should be the same.

Paragraph by paragraph comments follow:

Preamble - It was agreed that the ICNAF scheme should refer to paragraph 5 of Article VIII of the ICNAF Convention.

Paragraphs 1-3 - No comments.

Paragraph 4 - The USSR reaffirmed its views that the scheme should not include vessels engaged in "the treatment of sea fish" or "examination of catch" and suggested that these be deleted. The general view was that they should be retained, bearing in mind the provisions of paragraph 9(ii) and the device worked out in NEAFC.

Paragraph 5-8 - No comments.

Paragraph 10 - the USA suggested that sub-paragraphs (i) through (iv) could be omitted since these provisions are contained in the basic ICNAF regulations and that a brief note could be substituted that inspections would follow the procedures contained in the basic regulations. It was noted that this would have the advantage of automatically keeping the international scheme compatible with the basic regulations as they might be amended from time to time. While NEAFC needed these sub-paragraphs because there are no such provisions in its basic regulations, ICNAF does not need them. This was agreed together with a further suggestion that sub-paragraph (v) be somewhat revised in drafting the substitute for sub-paragraphs (i) through (iv).

The USSR reaffirmed its view that sub-paragraph (vi) should be revised so as to exclude inspection of nets below deck. This view was shared by some other Delegations, but the general view was that inspection below deck should be retained, and Members which object should refer to paragraph 9(ii) and the device adopted by NEAFC. It was finally agreed that, since the wording of the sub-paragraph had been an attempt to reach a compromise with Members which object to inspection below deck, and since these Members have indicated that they will make reservations on this subject under paragraph 9(ii), it would be preferable to revert to the original view of most Members that "all nets" should be subject to inspection.

Paragraph 11 - It was suggested that the affixing of identification marks be made permissive rather than mandatory. However, it was agreed that it should be left mandatory since this was designed to assist those Members who require such identification.

Paragraph 13 - The USA suggested that the paragraph be made more general to allow for inspections of catch which might be required under regulations adopted in the future. The USA noted that the Commission appears to be moving inevitably toward some form of effort or catch limitation. The USSR on the other hand felt that the paragraph should be deleted in keeping with its general views relating to the inspection of catch. A Spanish suggestion that the Commission provide inspectors with a uniform and up-to-date set of regulations in force was supported by the USA but subsequently withdrawn. It was felt that the desired end could be achieved without including it in the scheme. The Rapporteur provided recent information concerning the entry into force of up-to-date regulations in Subareas 1, 2 and 3 on 21 September 1968.

The Committee agreed to leave to the Chairman and Rapporteur, with such assistance as might be offered, the task of drafting the amendments to give effect to the modifications of the NEAFC scheme which had been agreed. The amendments set out in Annex I to this report were subsequently approved by the Committee.

Proposals for Changes by ICNAF
in the Scheme of Joint Enforcement
adopted by Fifth Meeting of NEAFC

1. Change "Contracting States" to "Contracting Governments" wherever it occurs in paragraphs (1), (8) and (9). In paragraph 4 omit "of any Contracting State".
2. Preamble - "Pursuant to paragraph 5 of Article VIII of the Convention".
3. Paragraph 10 - substitute the following:
 - (10)(1) Nets shall be inspected in accordance with the regulations in force for the Subarea in which the inspection takes place. The number of undersized meshes and the width of each mesh examined shall be entered in the inspector's report, together with the average width of the meshes examined.
 - (ii) Inspectors shall have authority to inspect all nets.
4. Paragraph 13 - substitute the following:
 - (13) The inspector shall have authority, subject to any limitations imposed by the Commission, to carry out such examination and measurement of the catch as he deems necessary to establish whether the Commission's recommendations are being complied with. He shall report his findings to the authorities of the flag state of the inspected vessel as soon as possible.

NEAFC Scheme of Joint International Enforcement for ICNAF
as amended by the ad hoc Committee on Trawl Regulations

Recommendation

Pursuant to paragraph 5 of Article VIII 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 Governments. 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 supplied by the authorities of the flag state 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 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 master of 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.

- (5) On boarding the vessel an inspector shall produce the document described in (3) above. Inspections shall be made so that the vessel suffers the minimum interference and inconvenience. 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. In making his examination an inspector may ask the master for any assistance he may require. 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 this recommendation but they shall remain under the operational control of their national authorities and shall be responsible to them.
- (8) Contracting Governments shall consider and act on reports of foreign inspectors under these arrangements on the same basis as reports of national inspectors. The provisions of this paragraph shall not impose any obligation on a Contracting Government to give the report of a foreign inspector a higher evidential value than it would possess in the inspector's own country. Contracting Governments shall collaborate in order to facilitate judicial or other proceedings arising from a report of an inspector under these arrangements.

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

(ii) The arrangements set out in this Recommendation and the plans for participation shall apply between Contracting Governments unless otherwise agreed between them; and such agreement shall be notified to the Commission:

Provided, however, that implementation of the scheme shall be suspended between any two Contracting Governments if either of them has notified the Commission to that effect, pending completion of an agreement.

(10)(i) Nets shall be inspected in accordance with the regulations in force for the subarea in which the inspection takes place. The number of undersized meshes and the width of each mesh examined shall be entered in the inspector's report, together with the average width of the meshes examined.

(ii) Inspectors shall have authority to inspect all nets.

(11) 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.

(12) 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 the subjects photographed should be listed in the report and copies of the photographs should be attached to the copy of the report to the flag state.

(13) The inspector shall have authority, subject to any limitations imposed by the Commission, to carry out such examination and measurement of the catch as he deems necessary to establish whether the Commission's recommendations are being complied with. He shall report his findings to the authorities of the flag state of the inspected vessel as soon as possible.

ANNEX IISTATEMENT BY THE USA

The United States considers it essential that a strong and effective system of international inspection be instituted in the ICNAF area as soon as possible. The United States does not consider the Scheme adopted by NEAFC to be strong and effective, rather, it considers it minimal. However, the US is willing to accept the NEAFC Scheme as the basis for an ICNAF system in the interest of bringing such a system into effect as quickly as possible. Certain modifications will be necessary to make the minimal NEAFC Scheme compatible with the basic ICNAF regulations in force.

The United States trusts that operations under the minimal Scheme will soon demonstrate that it is possible to improve the Scheme so that it will be truly strong and effective. The United States believes that the inspector should be permitted to examine all nets and catch aboard a vessel, since such examination might indicate infractions of the regulations which would otherwise go unnoticed. For example, the inspector might find that the nets on deck are small meshed and the fish on deck primarily of non-regulated species indicating no violation; but if further examination indicated most fish on board to be regulated species and all nets stowed below deck to be small meshed also he would reasonably conclude that the vessel was not complying with the Regulations.

Nevertheless, the United States is willing to accept the compromise set forth in paragraph (10)(vi) which would restrict the examination of nets below deck to those which are wet if all other Members will likewise accept the compromise without reservation. This would prevent fishermen from putting a small meshed net used in violation of the Regulations below deck to avoid inspection.

The United States also believes that there should be general authority for the inspector to examine the catch for additional reasons to the one cited above. The Commission should not have to amend the international inspection system whenever it adopts a new Regulation. Rather, the system should be general enough to permit the inspector to undertake any examination necessary to ascertain whether any

Regulation is being complied with. The present Convention permits the adoption of Regulations which would require the examination of catch, and the Commission appears inevitably moving toward some form of catch limitations which would require examination of catch.

The United States considers, of course, that the inspectors will use discretion in examining nets and catch only to the extent necessary to observe compliance with any Regulations in force.

ANNEX III

STATEMENT BY THE USSR

The Soviet Delegation considers that the joint enforcement system could be a useful supplement to an effective system of national inspection, but that it cannot substitute for national inspection on the high seas, which some Members of ICNAF unfortunately have not yet established.

The Joint Enforcement Scheme adopted at the Fifth NEAFC Meeting probably gives a sound basis for developing an appropriate scheme in ICNAF, having due regard to specific provisions of the regulatory system found in the Northwest Atlantic.

- 1) The ICNAF Regulations do not prescribe a minimum size for fish caught. However, they do include the allowable size of the by-catch of regulated species when fishing for non-regulated species with small mesh nets.

It is quite obvious that in such a situation only national inspection can ascertain whether the catch is in accordance with the regulations in force since national inspection is carried out not only on the high seas but also in the home ports, where the necessary facilities are found for weighing the catch and systematically examining the fishing log books.

For this reason we think that the examination of catches on a foreign vessel by an inspector probably is not required in the ICNAF area.

- 2) In the ICNAF area different minimum mesh sizes are found for different subareas. Fishing of non-regulated species with small mesh nets is allowed. Consequently, a vessel may have in its holds a wide assortment of nets which may be used in accordance with the Regulations applicable in the area with regard to the species of fish. For this reason the only task of the inspector is to ascertain whether the mesh size in the codend of a trawl which was on deck and used in that place is in accordance with the Regulations in force there. It is quite obvious that the inspector would not have any grounds for the examination of nets in the hold since the presence of nets by itself without any connection being established to the subarea where they were used would not give the inspector any basis on which to judge whether the Regulations were being observed.

The inspector should reach a conclusion whether the inspected vessel observes the Regulations in force. This is his only duty. Therefore, we cannot agree in principle with charging the inspector with duties which are beyond the scope of the Convention.

We understand that at present the Joint Enforcement Scheme is not perfect in all its details. Perhaps practice will show the way in the future to improve the Scheme. However, it is important to start this great enterprise, on which we have been working for a number of years.

Proceeding from the above, our Delegation confirms the desire and readiness of the Soviet Union to bring the Joint Enforcement Scheme into force and to send appropriate inspection vessels to the ICNAF area, as soon as all other Members of ICNAF are prepared to bring the Scheme into effect.