

International Commission for



the Northwest Atlantic Fisheries

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Canada-United States proposal for a revised Scheme of Joint International Enforcement of the fishery regulations in the Convention Area and Statistical Area 6

At the 1973 Annual Meeting of the Commission, the Standing Committee on International Control established a working group to consider means by which the Scheme of Joint International Enforcement could be improved. This action was in response to a United States proposal calling for a strengthening of the Scheme. The working group continued to meet during the Fourth Special Commission where a proposal, submitted by Canada, also calling for a strengthening of the Scheme, was considered.

At that meeting, Canada and the United States were requested to put forward a proposal in ample time for the 1974 Annual Meeting. In accordance with this request, the United States and Canada join in proposing that at its 1974 Annual Meeting the Commission adopt the attached revised Scheme of Joint International Enforcement of the Fishery Regulations in the Convention Area and Statistical Area 6.

Proposal for a revised Scheme of Joint International Enforcement of the fishery regulations
in the Convention Area and in Statistical Area 6

That pursuant to paragraph 5 of Article VIII of the Convention, the following arrangements be established to replace the Scheme of Joint International Enforcement of the Fishery Regulations in the Convention Area adopted at the Twentieth Annual Meeting (Ann.Proc.Vol.20, 1969-70, p.21-22) and revised at the Twenty-Third Annual Meeting (Ann.Rept.Vol.23, 1973, Proc.No.4, Appendix 4), for international control outside national fishing 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. Contracting Governments shall also notify the Commission of the names of the flag state authorities designated to receive immediate notice of infringements and the means by which they may receive and respond to voice communications.

"2. Vessels 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 vessels 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. The master of a vessel employed for the time being in fishing for sea fish or in the treatment of sea fish in the Convention Area or in Statistical Area 6 shall stop when given the appropriate signal in the International Code of Signals by a vessel carrying an inspector and enable an inspection party to board without delay. The vessel to be boarded shall not be required to stop or manoeuvre when fishing, shooting, or hauling; but the master shall nonetheless enable an inspection party coming alongside to board immediately.

" The master shall enable the inspector, who may be accompanied by other inspectors and witnesses, to examine and photograph catch, nets, or other gear and any relevant documents as the inspector deems necessary to verify the observance of the Commission's regulations 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. (i) On boarding the vessel an inspector shall produce the document described in paragraph 3 above. Inspections shall be made so that the vessel suffers the minimum interference and inconvenience. An inspector shall limit his inquiries to the ascertainment of the facts in relation to the observance of the Commission's regulations 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 the report. 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.

(ii) Where an infringement of the regulations is discovered, the inspector shall look at the pages of a bridge log, fishing log or other pertinent documents which contain information relevant to the infringement. The inspector shall enter a notation in the fishing logbook or other relevant document stating the date, location and type of infringement observed. The inspector may make a true copy of any relevant entry in such a document, and shall require the master of the vessel to certify in writing on each page of the copy that it is a true copy of such entry. The inspector shall have full opportunity to document evidence of the infringement with photographs of the relevant fishing vessel, gear, catch and logs or other documents.

(iii) Where an infringement of the regulations is discovered, the inspector shall, with a view to facilitating flag state action on the infringement, immediately attempt to communicate with any inspector of the inspected vessel's flag state known to be in the vicinity or a designated authority of the inspected vessel's flag state, which shall be notified to the Commission. The master of the inspected vessel shall make his radio equipment available for this purpose. Providing the inspector or designated authority of the flag state agrees, the inspector may remain on board the inspected vessel to facilitate preservation

of the evidence of the infringement up to maximum of 48 hours or until boarding of the vessel by a competent authority of the flag state. While the inspector remains on board, the inspected vessel may continue to fish providing it does not commit a further infringement. If the inspector is unable to communicate with an inspector or designated authority of the flag state, he shall complete the inspection, leave the inspected vessel, and communicate as soon as possible with an inspector or designated authority of the flag state.

- (iv) An inspector observing a failure of a vessel to enable an inspection party to board after being properly signalled shall:
 - a) Report the infringement as soon as possible to any inspector of the flag state known to be in the vicinity or a designated authority of the flag state.
 - b) Prepare an inspection report giving as much information as possible, including the distance from which the signal was given and the visibility at the time, and noting the failure to enable boarding.
- (v) A Contracting Government notified of an infringement committed by a vessel of its flag shall take prompt action through its designated authorities to receive and consider the evidence of the infringement, conduct any further investigation necessary for disposition of the infringement, and, whenever possible, board the vessel involved. The flag state shall cooperate fully with the inspector's state to ensure that the evidence of the infringement is prepared and preserved in a form which will facilitate judicial action on the infringement.

"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 those arrangements in accordance with the rules set out in this regulation 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 1 March each year of their provisional plans for participation in these arrangements in that and the following year and the Commission may make suggestions to Contracting Governments for the coordination of national operations in this field including the number of inspectors and ships carrying inspectors.

(ii) The arrangements set out in this regulation 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 for no more than one year, if either of them has notified the Commission to that effect, pending completion of an agreement.

"10. (i) Fishing gear shall be inspected in accordance with the regulations in force for the Subarea in which the inspection takes place. The number of undersize meshes and the width of each mesh in the nets 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 fishing gear and catch above and below decks.

"11. The inspector shall direct the master to remove any part of the fishing gear which appears to have been used in contravention of the Commission's regulations in force in relation to the flag state of the vessel concerned. An identification mark approved by the Commission shall be affixed thereto and the inspector shall record these facts on his report. The mark shall be so affixed as to ensure that this part of the gear cannot be used until it has been viewed by an inspector or designated authority of the inspected vessel's flag state, who shall determine the subsequent disposition of the gear.

"12. The inspector may photograph the fishing gear in such a way that the identification mark and measurements of the fishing gear are 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 by the Commission, to carry out such examination and measurement of the catch as he deems necessary to establish whether the Commission's regulations are being complied with. He may photograph the catch to document evidence of infringements, in which case copies of the photographs shall be attached to the copy of the report to the flag state. He shall report his findings to the authorities of the flag state of the inspected vessel as soon as possible.

"14. Each Contracting Government shall report to the Commission by 1 March each year for the previous year:

- (i) compilation of the inspections of the vessels of its own flag by any authorized ICNAF inspectors. This report shall refer specifically to each inspection by vessel - name, date, position, and where applicable, the nature of infringement.
- (ii) the status of disposition of each reported infringement by a vessel of its flag. Each infringement shall be listed annually until the action taken is final under the laws of the flag state. Any punishment imposed shall be described in specific terms, including the amount of any monetary penalty actually paid and the length of any imprisonment actually served."