

**Report of the
Extraordinary Meeting of the
North-East Atlantic Fisheries
Commission
14 - 15 May 2003**

Volume 1: Main Report

1.	Welcome address by the President.....	2
2.	Adoption of the agenda.....	2
3.	Establishment and arrangements for the Finance and Administration Committee	2
4.	Report by the Working Group on Blue Whiting	2
5.	Deep-sea fisheries	2
6.	Conservation and management measures for:	3
7.	Report of the Working Group on the Future of NEAFC, 13 May 2003	7
8.	Report from the Meetings of Legal Experts 29-30 January & 13 May 2003 on Dispute Settlement .	8
9.	Relationships with other international organisations	8
10.	Report from the Ad Hoc Working Group on the Computerisation of NEAFC (29 April 2003)....	9
11.	Ecosystem approach to fisheries management	9
12.	Report of the Finance and Administration Committee	9
13.	Memorandum of Understanding with ICES	9
14.	Arrangements for future meetings.....	12
15.	Press statements and other reports of the Commission's activities	12
16.	Any other business.....	12
17.	Closure of the Meeting.....	12

1. Welcome address by the President

The President opened the meeting and welcomed delegations from Contracting Parties, observers from non-Contracting Parties, IGOs and NGOs. The President's address is found in Annex A. The list of participants is found in Annex B.

Observers from non-Contracting Parties (Lithuania, Estonia and Latvia) made opening statements, found in Annex C. The observer from FAO made an opening statement, Annex D. Although not present, the NGO Seas at Risk made an opening statement, Annex E.

2. Adoption of the agenda

The meeting of the Finance and Administration Committee was postponed until November, and the Ad Hoc Working Group on the Computerisation of NEAFC had not met. The agenda was amended accordingly and was adopted as amended.

3. Establishment and arrangements for the Finance and Administration Committee

Item taken off the agenda

4. Report by the Working Group on Blue Whiting

The Chairman, Terje Løbach, Norway, reported that there had not been any meetings in the Group. The coastal states had still not finalised their deliberations. It was agreed that the Secretariat should produce a table showing the measures introduced domestically by Contracting Parties. This is attached as Annex F.

5. Deep-sea fisheries

a) Information on relevant national effort measures reported to the Secretariat

This is given in the *Report from the NEAFC Technical Meeting to examine the Community's proposal and any other relevant submissions*, 31 March – 3 April 2003, pages 2-3, and in Annex A of that report, pages 19-25*.

b) Report from the Meeting of the Deep-Sea Catch and Effort Statistics Working Group, 18 - 21 March 2003

The Chairman of the Working Group, Mr Odd Aksel Bergstad, presented his findings to the Commission. His conclusions are found in the *Report from the NEAFC Technical Meeting to examine the Community's proposal and any other relevant submissions* on pages 3-6*. His presentation is annexed as Annex G.

c) Report from the NEAFC Technical Meeting to examine the Community's proposal and any other relevant submissions, 31 March – 3 April 2003

The Chairman of the Technical meeting, Dr. Zbigniew Karnicki, presented the report. He drew attention specifically to the summary of conclusions, which was a text negotiated and agreed at the meeting. It aimed to establish the purpose and scope for bringing into place management measures for deep-seas fisheries and which parts of the EU proposal were non-controversial and which were controversial (Annex H).

* available at www.neafc.org

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6. Conservation and management measures for:

a) Blue Whiting for 2003

The coastal states will meet later this year.

b) Norwegian Spring Spawning (Atlanto-Scandian) Herring for 2003

The coastal states will meet later this year.

c) Deep-sea fisheries for 2003 and 2004

The President asked for comments on how to proceed to establish more permanent management measures for the deep-sea fisheries.

The Norwegian representative commended the work that had been done by the two Working Groups. He admitted that it was a difficult task to get a clear picture of the situation. He suggested that measures agreed upon should be restricted to the Regulatory Area. It will be up to each party to find measures that are similar, or as compatible as possible, inside their own jurisdiction. He understood that it was the EU approach to apply the same measures across the areas. Other parties may not apply the same measures inside and outside, but these may still be compatible.

Accepting that the Technical Meeting had followed its terms of reference, he considered that starting from a regulation that one Party has introduced for their fishing fleets may have made the task more complicated; it may be necessary to start from scratch with the purpose of adhering to advice from ICES on a 50% reduction in effort. The meeting should focus on the objective, rather than a particular management system. He also noted that reduction in effort had to be linked to present levels of effort. Reduction in effort by a certain percentage was perfectly feasible even if agreement had not been reached on how to measure effort across all fishing fleets.

The President again asked if it would be worthwhile going through the negotiated summary of conclusions to see if there had been any changes in positions since the Technical Meeting.

The representative of the Russian Federation felt that progress had been made through the good work of the Chairmen and the Working Groups. It was now recognised that the question is very complicated and includes species to include in various lists, and measures to establish which currently vary between Contracting Parties. He saw the possibility of making further progress, but maintained the Russian position that effort should be related to historical performance as demonstrated by each Contracting Party.

The EU representative conceded that the issues raised are very important but he wanted to come back to his main point, which is the definition of deep-sea fishing and to which activities the different measures should apply. The Community position is that any vessel bringing ashore more than 100 kilos of deep-sea species has been active as a deep-sea fishing vessel. If the catch includes species living in depths of more than 500 m, this was because they had been actively sought out. This is a simple, practical and controllable indicator of which vessels have participated in deep-sea fishing. He was open to consider all other suggestions but it was essential to be clear on what really was under discussion here.

The President recalled from the report of the Technical Meeting that there are difficulties in this approach, particularly the problem of discards.

The representative of the Russian Federation was not sure that the 100 kilo rule was operational. This had to be related to fishing operations; was it directed or was it in by-catch from, for example, blue whiting fishery? He would like to keep this question open.

The EU representative neither accepted that discarding was a problem, as catches of these species in deep water below 500 m would be the result of directed fisheries, nor that there was any conflict between finding solutions in NEAFC and setting compatible national measures.

The President asked if Contracting Parties agreed that catches of deep-sea species were a result of directed fisheries. He also asked if the 100 kilo limit was the only limit that could be considered.

The Norwegian representative indicated that they favoured a different approach, a domestic licensing system. Vessels would be licensed to fish for deep-sea species in the Regulatory Area (at present 17 Norwegian vessels would be entitled to such a licence). If unlicensed vessels land deep-sea species from the Regulatory Area, they will be treated in the same way as vessels in breach of the rules in other fisheries. Their catch could be confiscated, administrative sanctions could be introduced, licences to other fisheries could be withdrawn. If the infringement was serious under Norwegian legislation, the case would be given to the prosecution services to consider legal action.

The EU representative noted that, if this approach was followed in the Regulatory Area, some Norwegian vessels would have deep-sea species onboard fishing under a deep-sea licence and other Norwegian vessels without a deep-sea licence would also have deep-sea species onboard. These vessels would also be subject to inspection by NEAFC inspectors. How should NEAFC inspectors react in these situations?

The Secretariat drew attention to the provisions of the Scheme for notifying and authorising vessels for selected fish species. Reports to the Secretariat would be available to inspectors. This system will be similar to those in operation for mackerel, herring etc.

The President then asked if there was any possibility of combining the approaches suggested by the EU and by Norway. Both could be accepted as meeting the objectives of NEAFC measures in the Regulatory Area.

The EU representative understood that the specific conditions for authorisation to fish under the NEAFC Scheme are not very well defined. For other fisheries, which are clearly targeted, this may not be a specific problem. However, it is generally unsatisfactory to define an authorisation without having accompanying conditions. This is particularly important when management measures of particular resources are applied in a transparent and equitable way. For example, as the Community is applying a 100 kilo threshold, it is conceivable that another party applies a 50% by-catch rule. Although the Community was open to other possibilities, it felt it necessary to have a common minimum standard to make clear exactly what this authorisation means.

The Polish representative noted that a little progress had been made. It was clear that vessels fishing for deep-sea species needed special authorisation. Instead of trying to agree on the definition of a deep-sea fishery, it should first be agreed that all vessels fishing for deep-sea species need special authorisation. Specifications of requirements under that authorisation may be attached. By-catches of deep-sea species could be regulated separately, whether 100 kilos or another amount. Starting with the Norwegian proposal that the vessel needs to be authorised and adding conditions were steps in the right direction.

The President noted that it was agreed at the Technical Meeting that special authorisation was necessary. The observations of the EU representative raised the question of the limit for landing deep-sea species. Would it be possible for vessels not authorised to land deep-sea species under a liberal by-catch rule?

The EU representative noted that there was a distinction between the definition of the activity and the point where legal action would be taken. He made an analogy to the enforcement of speed limits. The important point is to have a clear legal definition and that is why a common minimum standard is needed.

Encouraged by the President to explain the Norwegian system, the Norwegian representative informed the meeting that domestic rules would define the vessel group. Other vessels landing deep-sea species from the Regulatory Area will be treated in the same way as vessels authorised for other fisheries.

The President noted that Norway had not yet defined minimum standards. The EU representative had understood the Norwegian explanation as a system with the legal limit of zero kilos and flexibility in the reactions to infringements of the legal limit. The Norwegian representative informed that Norway had not yet made any decision on a limit. Vessels were to be authorised to fish for deep-sea species in the NEAFC area and this list had to be accompanied by a species list. He did not see major problems of by-catches in other fisheries regulated by NEAFC apart from possibly Rockall Haddock. If there are problems these vessels have to have a by-catch limit, but this meeting was not the right place to make a decision on such a technical question.

The President accepted that this was not a technical meeting. The Polish representative asked the ICES representative if he could indicate in which fisheries by-catch problems could be expected. He wanted to have an indication of the scale of the problem. The ICES representative drew attention to the lack of data which did not allow him to give the information. The situation would hopefully improve with new sampling programmes in place.

The President suggested reverting to the summary of discussions and the non-controversial implementation from the Technical Meeting and quoted the following text on effort limitation from that paper:

Restrictions should be implemented by defining a limit to capacity of the fleet that can fish for deep-sea species, defined as an upper limit fishing capacity that can be deployed to deep-sea species by Contracting Parties.

The upper limit of fishing capacity should be based on the capacity of fishing vessels, which have fished for deep-sea species in an agreed reference period. Any vessel having caught more than a qualifying quantity of qualifying species in any one of the years of the agreed reference period should be included in the calculation of the reference basis.

The capacity to be limited should be measured in an agreed manner in consistent units by all Contracting Parties.

He noted some of this was connected to discussions of other items but, as a preliminary step, he wanted to establish if this meant that there was agreement to make reductions in effort. There was still agreement on this implementation.

He then continued with other non-controversial implementation which was all agreed. He suggested that discussions continued in a meeting of Heads of Delegations before the item was opened again in the Commission.

Although there was no disagreement on the need to protect vulnerable deep-sea species and heed scientific advice, discussion in the Commission showed that Contracting Parties are not ready to accept the EU proposal in its present form as practical and applicable in the NEAFC Regulatory Area. Points of contention are the definition of deep-sea fisheries, which species in the Regulatory Area should be included and methods to measure effort.

An open ended drafting Group was convened by Zbigniew Karnicki. A draft recommendation for temporary conservation and management measures for deep-sea species in the NEAFC Regulatory Area in 2004 was prepared. Dr. Karnicki presented the draft resolution to the Commission.

The President asked for comments. The EU representative thanked Dr. Karnicki for chairing efforts to put together a text on measures for deep-sea fisheries in 2004. He had, however, to point out that this was not a text he could support. He saw a number of problem areas and found it rather disappointing that so little progress had been made. The EU had examined the text to see if the measures suggested were effective in protecting vulnerable deep-sea species. Were they enforceable and equitably distributed between Contracting Parties? He found it particularly difficult to attach obligations to deep-sea fishing activities without a clear definition of that activity. The EU will consider a more efficient approach, solving outstanding issues, and urged other Contracting Parties to do the same.

The draft will be open for amendments and be brought forward to the 22nd Annual Meeting for final decision. The President noted that delegations would indicate to the Secretariat not later than 15 September if they see major problems in the proposed text. This should be done in order to be able to move forward.

The Icelandic representative could not accept this deadline. He had assumed that the draft recommendation had been made to speed up work, but there would still be a considerable amount of work left for the 22nd Annual Meeting. He would not like progress in this important issue to be confined to this document. He had agreed to the measure for 2003 as an *ad hoc* temporary measure to be substituted by something more effective later on. The present draft was still an emergency device, which could be implemented if we cannot agree on anything better, but he would like to keep all options open up to the 22nd Annual Meeting.

The Polish representative agreed with Iceland that the issue should be kept open but, considering the complexity of the issue, he would support the President and urge

Contracting Parties to comment on the text in advance, so it can be clearly seen where we have disagreements and where there is a possibility of agreeing.

The EU representative once again expressed his disappointment with the outcome of deliberations on deep-sea fisheries at this meeting. In order to be constructive, however, he supported the idea that other parties should comment on the draft proposal to clarify positions and be able to move forward. He was prepared to draft an “informal Community reflection paper” on how to move forward and circulate it to other Contracting Parties. He would also like to take up this issue on the several occasions when parties met bilaterally, trilaterally or multilaterally outside NEAFC to prepare the ground for the 22nd Annual Meeting. This is a very important issue, not just for the Community, and if NEAFC does not get this right the field will be open for environmental conventions to move into an area where NEAFC should have exclusive competence.

The President agreed that the issue should be kept open, but still urged Contracting Parties to make written comments before 15 September, without ruling out later suggestions.

No final decision on this draft was made; it will be open for amendments and brought forward to the 22nd Annual Meeting for a final decision.

d) Rockall Haddock

The EU and the Russian Federation had bilateral talks about the status of this stock and the need to introduce recovery plans and other measures and scientific advice on measures like closed areas for juvenile fish, limiting fishing mortality, minimum landing size and construction of fishing gear. The talks were very constructive. These talks and the expected scientific advice will provide the basis for concrete proposals for management measures to be discussed at the 22nd Annual Meeting.

7. Report of the Working Group on the Future of NEAFC, 13 May 2003

The Chairman of the Working Group, Mr Kolbeinn Árnason, presented the report of the Group (Annex J).

a) Indications to guide the expectations of interested non-Contracting Parties

It was agreed that at the 22nd Annual Meeting at the latest NEAFC would decide on guidelines - to be published - on the expectations of interested non-Contracting Parties. Most of the text for these was agreed in the Working Group and a couple of outstanding problems will be resolved before the 22nd Annual Meeting.

b) Other matters

The Working Group on the Future of NEAFC discussed IUU fishing based upon a report by the Secretariat. There was general agreement that this problem is an issue in NEAFC and should be closely monitored. It was agreed that the possibility of a meeting of the Group on IUU fishing should be kept open, pending the outcome of discussions in PECCOE in October. If a meeting is agreed, it should precede the 22nd Annual Meeting.

It was agreed that the UN should be informed that answers to policy questions in questionnaires and enquiries could not be answered by the Secretariat, but would be found in individual responses from NEAFC's Contracting Parties.

8. Report from the Meetings of Legal Experts 29-30 January & 13 May 2003 on Dispute Settlement

It was evident that no consensus could be reached on the EU's original proposal of December 2001 for setting up a mechanism for dispute settlement. It was also established that not all Contracting Parties were ready to take a decision at the Extraordinary Meeting.

As a compromise, it was agreed to amend the Convention to give the legal basis for making recommendation(s) on dispute settlement procedures. A text for the amendment and two recommendations were proposed, which incorporate the text in the original proposal for amending the Convention (Articles 13 bis and 18 bis), as amended at the meeting in Copenhagen in January.

The report of the meeting with the proposed text for amending the Convention and the recommendations is annexed as Annex K.

The Extraordinary Meeting of the Commission agreed by consensus on a commitment that all Contracting Parties will recommend the proposals in Annex K to their authorities with a view to making a formal decision in November. The EU agreed to make a formal proposal to the 22nd Annual Meeting in accordance with Article 19 of the Convention.

9. Relationships with other international organisations

a) Contacts with OSPAR

The Secretariat reported on contacts with the OSPAR Secretariat and drew attention to recent documents issued by OSPAR (and HELCOM) on the ecosystem approach and the proposal for a European Marine Strategy (see the note from the Secretariat on the Ecosystem Approach in the Context of NEAFC and Trends in Management of Marine Trends pages 9-10, Annex L).

It was decided that contacts between NEAFC and OSPAR will be maintained at the Secretariat level and policy questions will be handled by Contracting Parties individually directly with OSPAR.

Meeting of COFI, FAO 26 February – 2 March 2003

The draft report from the meeting was tabled for information.

3rd Meeting of Regional Fishery Bodies 3-4 March 2003

The report from the meeting was tabled for information.

2nd Meeting of NARFMOs 4-5 March 2003

The report from the meeting was tabled for information.

NEAFC interest in Deep-sea 2003, 1- 4 December 2003, Queenstown, New Zealand

The President asked for comments on this item. The Norwegian representative informed that he had asked for this item to be included on the agenda. He wanted to draw the attention of Contracting Parties to this conference arranged by FAO and New Zealand. In addition to science, biology and stock assessments, the conference will cover policy aspects with respect to the management of deep-sea stocks outside EEZs. He considered this the start of international discussions and consultation processes on deep-sea fisheries in the FAO system. It would be worthwhile for NEAFC and Contracting Parties to participate in the conference and have an impact on it. Experiences within NEAFC should be of interest. The Polish representative concurred and suggested that a Contracting Party reported to NEAFC for the information of all Contracting Parties.

10. Report from the Ad Hoc Working Group on the Computerisation of NEAFC (29 April 2003)

The Group had not met, but will meet later this year and report to the 22nd Annual Meeting.

11. Ecosystem approach to fisheries management

A note on the Ecosystem Approach in the Context of NEAFC and Trends in Management of Marine Trends was presented by the Secretariat (Annex L).

The Norwegian representative suggested that the power-point presentation of the note should be made available to interested Contracting Parties for information. The EU representative noted the inclusion of the ecosystem approach as one of the objectives of the revised Common Fisheries Policy and took the opportunity to remind delegates that this had led to a couple of changes to the Memorandum of Understanding, which he would like to revert to under agenda item 13.

The ICES representative noted that the presentation said that there were no examples of replacement of one fish stock when another fish stock has been fished down. He thought there were some examples of that - one is the depletion of cod in some parts of the North Atlantic. There was documentation showing that this had led to an increase in shrimp and *Nephrops* stocks. Other examples where one stock exerts a pressure on other stocks were also mentioned. However, he was not aware of any examples in the high seas in the NEAFC Regulatory Area. The Secretariat responded that the statement was a quotation from a scientific paper from the Reykjavík Meeting. There was a difference between fluctuations in stocks and balance between species and total replacement.

12. Report of the Finance and Administration Committee

See agenda item 3

13. Memorandum of Understanding with ICES

The MOU between NEAFC and ICES expired in December 2001 and has been rolled over twice since. ICES met client commissions on 19-20 February 2003.

A proposed text for a new arrangement in the form of an exchange of letters between the European Commission and ICES was circulated before the Extraordinary Meeting (Annex M). The text was introduced by the EU representative. He noted the present MoU which had been in force for almost five years. It had worked smoothly and well. He informed delegates that the European Commission had had extensive meetings with ICES on this issue with a view to improving the way in which advice is given and presented, and its timeliness. The text presented here is a draft that meets EU needs. As Community waters are essentially in the NEAFC Convention Area, he believed that it would be advantageous if procedures for requesting advice could be harmonised between the major clients, which are the EU Commission and NEAFC. The task is now to adapt the text to the special needs of NEAFC and negotiate that text with ICES in time to make a formal decision at the 22nd Annual Meeting of NEAFC.

He then went through the substance of the EC text. Administrative arrangements are essentially unchanged, except for the provision of paying the Chair of ACFM. New species are included. These species have gained importance as traditional species have dwindled and ICES is therefore asked to provide scientific advice for these species also. There are suggestions for improving the form of advice. The main consideration is to link advice to mixed fisheries where several stocks are exploited in the same fishery. With stock specific advice, it is suggested that advice is given according to harvest rules, where appropriate, and that option levels of catches should be consistent with sustainable catch levels and high level long term yields. ICES should however give a range of options around its advice values. To ease scientists' workload, it is also suggested that the frequency of advice should be linked to the information available. Where there is little new, there is no need to give new advice.

Ecosystem based advice is introduced. The reasoning is that managers should be advised as to how much impact fisheries have on the ecosystem. They should also be told if a particular fishery introduces imbalances into the ecosystem which may affect the yield of valuable species. ICES is also asked to advise on reference points for ecosystem management. ICES should make available to its clients the methods and processes used to estimate landings, fishing mortality, recruitment and spawning stock together with the uncertainties surrounding these parameters and the reference points. Transparency is required so the information ICES uses for assessments and advice should be available to clients. The EU envisages setting up bodies domestically to review and examine ICES advice in a two way process, allowing clients to review the ICES procedures and processes externally in whatever way they choose. Timetables for standard advice and short term urgent advice are also proposed.

The President thanked the EU representative and noted that the Commission had been served with much more than a negotiating mandate. The paper was very comprehensive. He then gave the floor to the ICES representative.

The ICES representative supported the view that the old MoU had worked well but there was a need to update it. Several new issues had appeared i.a EAF, new methods and the problem of the mixed fisheries. This is the reason why ICES generally supports a revised and updated MoU. He had noted the following points in the EU proposal. Formerly only the STATLANT database had been included in the arrangement. In fact there now are other databases which are fundamental to the advisory process and they should perhaps be included in the MoU. A number of new tasks are included and several of them demand more than just an increase in the efficiency of the advisory

process, ie more fish stocks, ecosystem consideration and mixed fisheries, which have some cost implications.

With respect to the ecosystem approach and the problem of describing the system in an unexploited state, at the moment this is an unresolved research area. ICES will not at this stage be in a position to give final advice on this. The last point was the request for transparency. There could be a conflict between what clients request and what ICES can deliver. He noted that the ICES Bureau had just decided that data broken down at a national level should not be given to clients.

The President informed delegates that a decision on a new MoU would be taken at the 22nd Annual Meeting. He asked for proposals on how to proceed between now and November. The EU representative would like to hear comments on their text from other parties so as to be able to take them into account before finalising negotiations with ICES. He envisaged that there would now be negotiations between ICES and NEAFC, in which NEAFC would be represented by the President and the Secretary who will negotiate a final text to be decided on in November.

The Norwegian representative concurred. He had not had sufficient time to study the EU text in detail but he believed there must be differences between the needs and duties of the EU and NEAFC and these should be borne in mind. One observation is that we have to understand that we cannot get more out of ICES than we put in into our National Research Institutes. There will be no point asking ICES for detailed advice on blue whiting if there is no research. The main problem at the moment seems to be that funds into scientific work in fisheries advice is definitely not increasing. Even reporting from commercial activity is going down and NEAFC should pay attention to that. The representative of Poland supported the procedure proposed.

The President suggested giving delegates more time to study the EU paper. There seemed to be a general feeling that he and the Secretary should be empowered to negotiate with ICES, but input and advice from Contracting Parties would be highly appreciated. He noted the preference of the EU to have a NEAFC MoU as close as possible to their own. He wanted guidance on which stocks we want advice on, how advice should be tailored and how much we want to pay. His immediate feeling is that we need advice at least on the regulated species and deep-sea species. There should also be the possibility of asking ICES for additional advice. The EU representative noted that NEAFC is also the forum for discussions on biology. He would not like to restrict focus only to those stocks NEAFC regulates, advice from ICES is much broader and covers the whole North East Atlantic. The point of departure should be the list of species in the present MoU, revised as appropriate. This list is the same for NEAFC, the EC and IBSFC. The varying interest in the stocks was taken into account in cost splitting between clients.

The President noted the present list included all important commercial species in the NEAFC Convention Area. The EU representative wanted those new species suggested by them to be included in the NEAFC list.

With respect to the form of advice, the President informed the meeting that the Secretary had studied the EU proposal and concluded that it will serve as a useful and sensible template for a new NEAFC MoU.

With respect to costs, he noted that the present system of cost recovery was rather complicated and linked to internal ICES arrangements. He would prefer a fixed price for the number of years the MoU runs. Only the provision of additional advice would lead to higher costs. The EU representative agreed with this and added that negotiations should lead to costs for NEAFC as low as possible. He also suggested that clients keep in contact and coordinate their approach to ICES. Poland concurred with the EU but wanted to be sure that the price was not set so low that it would affect the quality of the advice. The President assured the meeting that he would try to find the right balance.

It was decided to mandate the President and the Secretary to negotiate the new Memorandum of Understanding between NEAFC and ICES. A draft of the result will be circulated for comments later this year.

The MoU should be ready for decision at the 22nd Annual Meeting in November 2003.

14. Arrangements for future meetings

Dates for meetings of PECCOE and the Ad Hoc Working Group on the Computerisation of NEAFC will be decided in consultation with the Chairmen and will probably take place in the first or second week of October.

The possibility of a meeting of the Working Group on the Future of NEAFC on IUU fishing immediately preceding the 22nd Annual Meeting was kept open pending the outcome of discussions in PECCOE in October 2003.

15. Press statements and other reports of the Commission's activities

The press release prepared by the President and the Secretariat after the Meeting is attached as Annex N.

16. Any other business

There was none

17. Closure of the Meeting

The President closed the meeting thanking the Chairmen and Working Groups which had worked hard to prepare documents for the meeting. He also thanked all the participants and the Secretariat and wished delegates a safe trip home.