

# MEETING OF THE WORKING GROUP ON THE FUTURE OF THE NORTH-EAST ATLANTIC FISHERIES COMMISSION

7-9 February 2006

At NEAFC headquarters - 22 Berners Street, London W1T 3DY

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## 1. Opening of the Meeting

The Chairman, Mr Kolbeinn Árnason, opened the meeting in NEAFC HQ, 22 Berners Street. All Contracting Parties were represented, except the Russian Federation. He welcomed everyone to the meeting. He noted that the agenda was rather full and included complicated issues, but papers from Contracting Parties dealing with the agenda items would help.

## 2. Adoption of the agenda and appointment of rapporteur

The Norwegian representative wanted to add a letter from Seas at Risk and other NGOs with a proposal for more transparency under agenda item Any Other Business. The EU wanted to take out the words external and regulatory from agenda item 3, because the discussion of the scope of the review had been left to this meeting by the NEAFC Commission at the Annual Meeting in November 2005.

With these amendments, the agenda was adopted and the Secretariat was appointed rapporteur (Annex A).

## 3. Mandate for processes related to a performance review of NEAFC

The Chairman recalled the mandate drafted at the Annual Meeting:

*“Recalling the importance attached to evaluating the RFMOs, expressed i.e. at the March 2005 meeting of the FAO Fisheries Committee (COFI), the Commission recommends that a performance review of NEAFC is established.*

*The purpose of such a review is to provide for a systematic check of the performance of the organisation and its consistency with the NEAFC Convention, UNFSA and other relevant international agreements and instruments.*

*The Working Group on the Future of NEAFC shall develop assessment criteria and procedures for the performance review, including terms of reference for the review, in consultation if appropriate with FAO and other RFMOs. The procedures and terms of reference, together with administrative details, should be submitted to the Contracting Parties for decision by postal vote.*

*The performance review should aim to be presented to the Annual Meeting in 2006”.*

He noted that the timetable was very ambitious and invited the Norwegian representative to introduce document Future WG 2006-05.

The Norwegian representative referred to international discussions in FAO, the Conference of Ministers of Fisheries of the North Atlantic (NAFMC) and resolutions from the UN General Assembly last November. He drew attention to the fact that there was a difference in opinion on external versus internal review. This present discussion in the Future WG could be seen as a first informal internal review, but Norway thought a number of factors discussed in international fora and the credibility

of a review pointed to an external review as the most appropriate, as did the tight timetable.

He then referred to the concrete Norwegian proposal and the performance criteria involved. He noted that the criteria were similar to those used in a recent global review undertaken by UNDOALOS. The team of reviewers could consist of four experts with experience in this area.

There was considerable discussion after the presentation and a number of points were made. The virtues of an internal review with some external assistance were analysed, additional criteria against which the review should be made were suggested and there was a warning against using criteria that are not well defined. It was stressed that reviewers should state where there were problems, but should not be asked to suggest solutions, which were for the NEAFC Commission to find. The Commission would also be the appropriate forum to discuss new challenges. It was suggested that drawing from experiences in other RFMOs, for example the Next Steps process in NASCO, would be valuable. The importance of involving stakeholders was also mentioned.

Based on extensive discussion, the Chairman summarised and drafted, with help from other participants, proposals for terms of reference and for the composition of the performance review panel. It was also agreed that the review should list achievements and pinpoint problems, but not suggest remedies regarding the rather tight timetable, it was agreed to give the panel an option to report on progress in September 2006.

With respect to stakeholder involvement, the Norwegian representative noted that stakeholders were involved and this is taken care of by Contracting Parties individually. He was hesitant to accept a NEAFC stakeholder meeting. The Icelandic representative concurred that this was a task for Contracting Parties. He did not want to create an independent body of stakeholders in NEAFC. The Faroese representative of Denmark (in respect of the Faroe Islands and Greenland) agreed.

The representative of the EU noted that the discussion showed that there was some confusion about what was meant by stakeholder involvement. In NASCO this meant that stakeholders, fishermen, managers and NGOs were given the opportunity to give an opinion on the organisation from the outset and where they saw it heading. This was cheap to organise and the proposed performance review panel could be involved to give an impression of the role of NEAFC, as seen by people on the ground.

The Greenlandic representative of Denmark (in respect of the Faroe Islands and Greenland) thought this was a possibility, but NASCO and NEAFC were rather different entities, especially in their relationship with commercial fishermen. He doubted the outcome of such an exercise and wondered whether the aim was to meet a wish expressed by fishermen in the NEAFC area. If such a wish had been expressed, he would consider it. He thought that the task involved, matching the performance of NEAFC to specified criteria, did not easily lead to the involvement of stakeholders.

The Chairman agreed but acknowledged there may be a point in presenting the findings of the review to stakeholders. The representative of the EU accepted that involvement in a fact finding process may not be attractive. The representative of the

EU informed that they would use the European Community Regional Advisory Councils (RACs) to get input and would be ready to report to NEAFC on their experience.

It was noted that reference to the Coastal States did not refer to compatibility but the two-tier management process in NEAFC where, in most cases, Coastal States agree on overall TACs and management plans before bringing the matter to NEAFC to cover fisheries in waters beyond national jurisdiction. The wish was expressed to name the institution that would nominate a marine scientist: NAFO or other RFMOs were suggested. It was questioned whether NAFO or other RFMOs can react as fast as wished. If not, a state party in North America could be asked to nominate a scientist. It was agreed to proceed along these lines.

The Chairman then summed up that there was agreement on the text of the proposal and closed the agenda item. The final text can be found in Annex B.

### Actions arising

The proposal by the Working Group on the Future of NEAFC on terms of reference for a NEAFC performance review and composition of the review panel would be sent to the NEAFC Commission for a postal vote when Contracting Parties have had the chance of commenting on the final draft and the Summary Records.

In order to save time, the Secretary will approach FAO, UNDOALOS and RFMOs to explore their willingness to assist NEAFC with the nominations. If RFMOs cannot respond within the given timeframe, a state party in North America will be approached.

## 4. Criteria and procedures for closing areas to fisheries

The Chairman invited the Icelandic representative to present his ideas in document Future WG 2006-07 on how to further discussion of the item.

The Icelandic representative presented the paper. His main conclusion was that the present setup of NEAFC Committees and Working Groups is not very well suited to deal with the particular issue of area restrictions and he proposed the establishment of a Working Group on Area Restrictions, WG MAR, which could become the forum for the orderly and time effective handling of these matters. The proposal also outlined, in detail, the different steps and timelines in reaching a decision in NEAFC.

In the discussion it was pointed out that the timeframe for submitting a proposal, receiving advice and making a decision was rather wide and lagged behind NEAFC's annual decision timetable. The Icelandic representative responded that he estimated that the time from submission to decision could be around one and a half years, depending on the frequency of meetings and general timing. It may be possible to act within a year. This would not prevent NEAFC from acting faster on a precautionary basis. The representative of the EU asked about a fast track procedure and if the proposal would allow the submission of proposals at a very late date before a meeting taking a decision. The Icelandic representative responded that we cannot stop Contracting Parties submitting proposals whenever they liked; however, that would generally be very rare and should not be prohibited. The Chairman stressed that it

should be possible to act on a precautionary basis, but these decisions could then later be reviewed.

In the discussion, attention was drawn to the procedure for requesting scientific advice and the link to the MoU with ICES. It was suggested that, instead of creating a new working group, the recently established Permanent Committee on Management and Science, PECMAS, should be used. This group should be able to handle all aspects related to traditional fisheries management and to area closures not directly related to fisheries management (i.e. protection of vulnerable areas). There was general support for using PECMAS rather than establishing a new group, particularly as this would be cost effective because the group could then also deal with other matters.

There was considerable discussion of the proposed steps in a decision process and the necessary scientific information. It was pointed out that it would be necessary to look at the costs of the proposals and, for example, displacement of fleets and other socio-economic consequences.

There was also general support for setting up procedures and finding ways to shorten the process. It was repeatedly stressed that the aim was to create an orderly process and avoid panic decisions. The point was to set up procedures to look into these matters on a case by case basis.

In a discussion of obligations under the newly agreed amendments to the Convention (November 2005), the question arose as to how big a percentage of vulnerable habitats should be protected. The point was made that the recent amendments to the Convention did not give NEAFC an obligation to conserve all non-target species, but rather to minimise adverse effects from fisheries. All proposals need to be based on scientific information in whatever form it comes, as hard facts or soft indicators. It was also stressed that the precautionary approach is established in UNFA, stating that lack of scientific information should not prevent action. However, finding a practical balance was a difficult problem. A proposal for a closure should be accompanied by a plan for acquiring scientific advice. The onus to make the case would be on the Contracting Party that proposed the measures. The need for criteria for opening closed areas again, for example the areas closed in 2004, was mentioned.

It was agreed to draft a proposal for inserting a new paragraph 2b into the terms of reference of the Permanent Committee on Management and Science, PECMAS, and an annex with a list of possible procedural steps. The draft was presented to the Group by the Chairman.

There seemed to be agreement in principle. It was pointed out that there was plenty of time to amend the annex before it goes to the Annual Meeting. The discussion had not been exhaustive and probably had to continue in PECMAS.

It was agreed that PECMAS would have a mandate to make proposals on its own or based on mandates from the Commission or proposals from Contracting Parties. Requests for advice to ICES had to go through the Commission and this could be done quickly by postal vote. An early indication should be given of any proposed

prolongation of the closure of the five areas closed from 2005 after 31 December 2007 and what advice was required.

### Actions arising

The proposal for inserting a new paragraph into the terms of reference of the Permanent Committee on Management and Science will be forwarded to the Commission for decision. The annex on decision processes and required scientific advice will remain open for proposal for amendments from Contracting Parties and in PECMAS.

## 5. Procedures to follow up amendments of the Convention and their voluntary provisional application

In Doc. Future WG 2006-03 1. rev. information is given with respect to steps involved in entering Convention amendments into force. It was noted that it had not been possible to hold a formal postal vote, necessary to proceed both with the amendments and provisional application, because one Contracting Party (the Russian Federation) still had not indicated its readiness to vote.

There is no deadline for informing the depositary according to Article 19. 3. The Norwegian representative expressed disappointment that other Contracting Parties had not informed the depositary about the amendments agreed in 2004 and urged other parties to do so.

There were two amendments and there was no need to delay the acceptance of the first amendment. The Faroes - Denmark (in respect of the Faroe Islands and Greenland) - and Iceland had intended to put both amendments through in one package but now, with uncertainty about when the Russian Federation would be ready, it may be necessary to go ahead with only the 2004 amendments.

The Chairman thought the common understanding of timetables to go forward was useful, but the involvement of the Russian Federation was necessary. It was agreed that the President would approach the Russian Federation to investigate when they would be ready for a formal vote and their thoughts on a timetable.

## 6. Future meetings

The Group should have the opportunity to meet in September 2006 in London if the performance review panel chooses to submit a progress report, and at the beginning of 2007 if there are any requests from the NEAFC Commission

## 7. Report of the meeting

The report of the meeting will be based on the Summary Records, including the final text of the two main proposals, which will be circulated for comment on 9 February with a deadline for response by Thursday 16 February.

## 8. Any other business

The Norwegian representative introduced a letter from three NGOs with a request to increase transparency with reference to international law. The amendment of the rules of procedure in this respect in 2001 was discussed in the Future WG, which had subsequently made a recommendation to the Commission. In essence, the NGOs asked for permission to attend Committee and Working Group meetings.

Various points were made, both examples involving NGOs to a larger extent, and doubt that this involvement necessarily increases transparency was expressed. It was noted that FAO-COFI was very strict on participants in “friends of the Chair groups”, even IGOs were not always allowed. Concerns for the interests of real stakeholders was raised.

It was agreed to refer the letter to the Annual Meeting for the Commission to decide without any proposal from the Working Group.

### Actions arising

The letter from the three NGOs will be forwarded to the NEAFC Commission for decision without any proposal from the Working Group.
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## 9. Closure of the meeting

The Chairman thanked participants for their good cooperation and willingness to reach conclusions. The representative of the EU thanked the Chairman.



**Annex A**

**WORKING GROUP ON THE FUTURE OF THE  
NORTH-EAST ATLANTIC FISHERIES  
COMMISSION**

**7-9 February 2006, 10 am**

**NEAFC HQ  
22 Berners Street, London W1T 3DY**

**AGENDA**

- 1. Opening of the meeting**
- 2. Adoption of the agenda and appointment of rapporteur**
- 3. Mandate for a process of regular external review of NEAFC**
- 4. Criteria and procedures for closing areas to fisheries**
- 5. Procedures to follow up amendments of the Convention and their voluntary provisional application**
- 6. Future meetings**
- 7. Report of the meeting**
- 8. Any other business**
  - Letter from Seas at Risk and other NGOs**
- 10. Closure of the meeting**

**Proposal by the Working Group on the Future of NEAFC on terms of reference for a NEAFC performance review and composition of the review panel**

At the 24th Annual Meeting of NEAFC it was agreed that a review should be conducted to check the performance of the organization and its consistency with the NEAFC Convention, the United Nations Fish Stocks Agreement (UNFA) and other relevant international instruments.

The review should assess the performance of NEAFC, since the entry into force in 1982 of the NEAFC Convention, against the objectives set out in that Convention.<sup>1</sup>

Consideration should be given to the development in fisheries and ocean management that have taken place since the entry into force of the NEAFC Convention.

The review should give special emphasis to the objective NEAFC set out in the amendments agreed in 2005 to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits<sup>2</sup>

The review shall be performed on the basis of the criteria specified below, and shall point to achievements and areas where there is room for improvement.

<b>1</b>	<b>Conservation &amp; management of fisheries resources</b>	Knowledge about the status of marine living resources	Status of major fish stocks in relation to maximum sustainable yield and other relevant biological standards. Trends in status of stocks. Status of species belonging to the same ecosystems as, or are associated with or dependent upon, the major target stocks
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<sup>1</sup> Article 4 of the 1982 Convention

<sup>2</sup> At the 2005 Annual Meeting the NEAFC Commission agreed in substance to the London “Declaration” on the Interpretation and Implementation of the Convention on the Future Multilateral Cooperation in North-East Atlantic Fisheries”

		Quality and provision of scientific advice	Extent to which NEAFC receives advice in accordance with Article 14 of the NEAFC Convention and the Memorandum of Understanding between ICES and NEAFC
		Data collection and sharing	Extent to which Contracting Parties, individually or through NEAFC, collect and share in a timely manner complete and accurate data concerning fishing activities
		Adoption of conservation and management measures, including measures adopted at Coastal State level	Extent to which NEAFC has adopted measures based on the best scientific evidence available and on the precautionary approach in order to ensure the promotion of the long-term conservation and optimum utilization of the fishery resources Extent to which NEAFC provides sustainable economic, environmental and social benefits  Extent to which NEAFC has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems
		Compatibility of management measures	Extent to which measures have been adopted as set out in Article 7 of UNFA
		Fishing allocations	Extent to which NEAFC successfully allocates fishing opportunities
<b>2</b>	<b>Monitoring, control and enforcement</b>	Flag state duties	Extent to which Contracting Parties are fulfilling the duties as flag states under the NEAFC Scheme, UNFA Article 18 and the 1993 FAO Compliance Agreement.
		Monitoring, surveillance and control activities	Extent to which Contracting Parties implement the relevant parts of the NEAFC Scheme of Control and Enforcement and the non-Contracting Party Scheme
		Port State measures	Extent to which Contracting Parties implement port State obligations under the non-CP Scheme and UNFA Article 23
		Other enforcement-related issues, including follow up on infringements	Extent to which Contracting Parties are following up on infringements to both Schemes and management measures by which they are bound
<b>3</b>	<b>Decision making and</b>		Extent to which NEAFC has established adequate decision making procedures and mechanisms for solving possible disputes

	<b>dispute settlement procedures</b>		
<b>4</b>	<b>Cooperation</b>	Transparency	Extent to which NEAFC is operating in accordance with the transparency provisions of Article 12 of UNFA
		Participatory rights of newcomers	Extent to which NEAFC is determining participatory rights of new members in accordance with Article 11 of UNFA
		Relationship to cooperating non-Contracting Parties	Extent to which NEAFC grants cooperative non-Contracting Party status in accordance with the non-Contracting Party Scheme
		Relationship to other non-Contracting Parties	Extent of fishing activity by vessels of non-Contracting Parties, which are not cooperating with NEAFC and measures to deter such activity
<b>5</b>	<b>NEAFC in a regional and international context</b>	Cooperation with other RFMO/As	Including cooperation in the network of Regional Fishery Body Secretariats
		Cooperation with other regional organizations,	Including the OSPAR Commission for the Protection of the Marine Environment in the North East Atlantic

The review shall be the carried out by a performance review panel consisting of the following members:

- The Chairman of the Working Group on the Future of NEAFC;
- A fisheries management expert nominated by UN Food and Agriculture Organisation, FAO;
- The Chairman of NEAFC’s Permanent Committee of Control and Enforcement, PECCOE;
- An international law of the sea expert nominated by the UN Department on the Oceans and the Law of the Sea.;
- A marine scientist nominated by a scientific institution, based outside the North East Atlantic Area and
- The Secretary of NEAFC.

The member nominated by FAO shall act as the moderator of the panel.

Secretarial assistance to the panel will be provided by the NEAFC Secretariat.

The panel shall aim at submitting the final report to the 2006 Annual Meeting of the NEAFC Commission

The Panel will have the possibility - if it so chooses - to make an interim progress report to NEAFC in September 2006.