



MEETING OF PECCOE - THE PERMANENT COMMITTEE ON CONTROL AND ENFORCEMENT

4-5 April 2006

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

DRAFT SUMMARY RECORDS

4 April 2006 10:00 am to 4:10 pm

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1. Opening

The Chairman, Mr Martin Newman, EU, opened the meeting welcoming everybody. All Contracting Parties were present.

Item closed

2. Appointment of the rapporteur

The Secretariat was appointed rapporteur

Item closed

3. Discussion and adoption of the Agenda

The representative of the EU stressed the need for making time available to discuss item 5. The Chairman pointed out that the main reason for the meeting was the port control scheme, but accepted that the problem of IUU vessels has arisen and had to be addressed.

Item closed

4. Port State Control

- *Mandate from 24th Annual Meeting to develop a proposal on measures for inspections in port including implementing appropriate rules regulating IUU operations based on ports and services in Contracting Parties*

Two documents had been circulated by the Chairman as the basis for the discussion, documents PE2006/05 and 2006/06.

The Chairman listed the development of the discussions on port state control. In April 2005 in Reykjavik Norway had presented a scheme based on the FAO model scheme, where it was discussed briefly. It was discussed in more detail in Copenhagen in October 2005, and PECCOE tried to evaluate how the Norwegian proposal fitted in with the two other Schemes. The present proposal inserts port state control measures directly into the two existing Schemes.

He also drew attention to the questions PECCOE had posed to the NEAFC Commission at the Copenhagen meeting. He had hoped for a clear answer. There was, however, no answer. PECCOE was asked to make a proposal anyway.

The changes in the Scheme were in bold and the changes in track change mode in the NCP Scheme. The Scheme had also been split into chapters to make the structure of the Scheme more evident.

He then went through the amendments in Article 1, definitions. The representative of the EU suggested using “*designated*” rather than “*used*” and “*fishing vessel flying the flag*”.

The representative of Denmark (in respect of the Faroe Islands and Greenland) asked about the term “close to shore” and pointed out that transshipment was not always close to shore. The Chairman noted that transshipment was covered in other Articles, especially 10a.

The Icelandic representative noted that there may be a need to define a cargo vessel.

Article 2: The amendments open up for covering activities outside the Regulatory Area, but these should be clearly defined.

The representative of the EU did not see much point in 2a, but felt it could stay as it did no harm. The representative of Denmark (in respect of the Faroe Islands and Greenland) and the Icelandic representative thought it could be helpful and stress the need for exchange of information.

The amendment in 3.3 was editorial. The Icelandic representative questioned the whole point of 3.3 and the extent to which it limited the possibilities of a vessel that had transhipped to start fishing again. The Chairman reminded the meeting of earlier

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discussions on problems with tracing the origin of fish aboard on vessels. This may be the reason for the paragraph. The Icelandic representative could accept that, but drew attention to the possibilities for vessels to have on board fish from fishing areas outside NEAFC. The Icelandic representative proposed removing the paragraph, as there were other more effective tools, like required marking of boxes.

The representative of Denmark (in respect of the Faroe Islands and Greenland) suggested taking time to reflect on this and come back to the matter. The Norwegian representative remembered that the earlier discussions had been quite extensive and also called for reflection and revisiting the matter later in the meeting.

Article 10 had had been changed so communications from fishing vessels to the NEAFC Secretariat became mandatory. The representative of the EU preferred the original *or* to keep flexibility. The Norwegian representative pointed out that this was a change aimed at meeting future requirements, for information in a database operated by the Secretariat. It was also proposed removing telex as a means of communication. The representative of Denmark (in respect of the Faroe Islands and Greenland) noted that telex was still a part of maritime communication, but there are no providers left for this services. The Chairman pointed out that reports directly from fishing vessels to the Secretary are not immediately required and proposed keeping the present wording. The Norwegian representative supported this as did the representative of the Russian Federation and the Norwegian representative. The Icelandic representative suggested that the list of means of communication was substituted with the text “electronic means”. The Chairman accepted the point, but suggested concentrating discussion on changes with respect to port state measures.

The Chairman explained the thinking behind Article 10a on transshipment. The text opens up for covering fishing outside the Regulatory Area and non-regulated resources and thus expands the scope of the Scheme. The Norwegian representative had one concern. Did Article 10a spell out clearly that the requirements for communication of transshipments are the same as in Article 10? The Chairman thought that this was the case. The Russian Federation asked if this paragraph meant that, for example, cod transshipments should be reported? The Chairman responded that is the crux of the whole thing. As the paragraph stands now, cod and activities in the whole Convention Area are covered, also areas under national jurisdiction. The Icelandic representative felt that catches and transshipments solely taking place in waters under national jurisdiction should not be included. The Chairman suggested that the discussion on this point was halted and taken up again after the other amendments had been explained and their consequences understood.

The Chairman then turned to Chapter V, which contains the specifics on port state control. In 18 a the scope is the Convention Area and all fisheries resources. The representative of the EU informed that he had some problems with this wide scope. For some member states this could be a very heavy burden to shoulder. He thought that some limitation of the fisheries resources involved was necessary. The representative of the Russian Federation recalled their earlier point that it would be difficult for inspectors to

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be aware of all fisheries legislation in all national jurisdiction. The Icelandic representative drew attention to Article 18f, which stipulates that 15 % of landings should be inspected. The representative of Denmark (in respect of the Faroe Islands and Greenland) drew attention to the requirement of 15 % coverage.

The Norwegian representative wanted to thank the people that had developed the amendments. He stressed he wanted to make clear that he supported the proposal as it stands, also the scope. He pointed out that Norway had accepted the concerns of other parties with respect to creating a third scheme. He hoped other parties would show the same openness. The representative of the Russian Federation supported the Norwegian representative.

The Chairman, as a side remark, thought that the NCP Scheme also should be included as a chapter in “the Scheme”, once consolidated Scheme text covering all aspects of enforcement and control had been agreed.

Article 18b Designated reports: The representative of the Russian Federation pointed out that this concept would require changes in Russian law. He, therefore, proposed to postpone this Article for the time being. The representative of the EU understood the Russian concern, but there would be possibilities to set reasonable dates for the implementation of the measures. The Chairman pointed out that designated ports were only for foreign vessels.

Article 18c Prior notice of entry into port and **Article 18d** authorisation to land or tranship. The Chairman noted the close links between these two paragraphs. He also noted the need to have a clear structure in the flow of information, involving both flag states and port states.

The Chairman listed the elements of 18c and noted that scope would influence the commitments. The representative of the EU suggested substituting “Contracting Party” with “port state”. He also suggested substituting “immediate” with “without delay”. The Norwegian representative found that there was a need to develop Annex A further. The Chairman thought that if there was agreement on the text and the scope it would be easier to move forward. A drafting group could then be tasked with developing the Annexes and messages, and the AGDC would probably be involved. This should be done in time to have a finalised package for the PECCOE meeting in October.

The representative of Denmark (in respect of the Faroe Islands and Greenland) suggested that the wording “relevant Contracting Parties” was ambiguous; it would be better to have the information centrally at the Secretariat available for all Contracting Parties. The Chairman said the phrase had been taken over from the original proposal, but was not explained anywhere. He mentioned the situation where fish has been caught by a vessel of one flag and transhipped to a vessel of another flag state. The Norwegian representative thought this was to limit the flow of unnecessary information. The Chairman agreed that information should just be sent for parties that had to act on the it.

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The Icelandic representative thought that information should be made available on the NEAFC website. This could be taken up by AGDC.

The Chairman stressed that information to be acted on should be sent directly. The Icelandic representative felt that this could be taken care of by the Secretariat, automatically on the website. He also felt that it was simpler to modify the system in one place rather than in all the different FMCs. The representative of the EU saw merits in the Icelandic proposal. The Chairman just wanted to make sure that the flag state got the information allowing a decision on a landing and response to the port state. He would go along with any technical solutions available. The Icelandic representative was convinced that a flexible solution based on good technology was feasible. The representative of Denmark (in respect of the Faroe Islands and Greenland) noted the very short timeframe. It seemed simple, but there was a need for a transition period.

The Secretariat pointed out that the philosophy hitherto had been that the flag states manage the information and its dissemination. The Scheme has been operated on the basis that no interference by the Secretariat is necessary. It is automatic and information always available. All tools are there, and authorisation and notification are in place. There is a port message, and there may be a need for an authorisation of landing message. Experience has shown that the follow up of transshipments is poor. There is never the twin-situation foreseen. The Icelandic representative noted that it was precisely the Scheme structure that had inspired his intervention, especially the recent development where inspectors can access the database.

The Chairman stressed that the question was whether technical solutions could be implemented within the timeframe foreseen for the Scheme changes.

Article 18 d. In line with the change in 18 c “Contracting Parties” are substituted with “flag states”.

Break 11:55 – 12:20

Article 18 e Inspectors. The representative of the EU suggested taking out “shall” and inserting “may” In 18 e 3.

Article 18 f Procedure for the inspection of foreign vessels

The Chairman pointed out that 15 % coverage was related to scope. A wide scope would increase numbers of port inspection significantly. In 18 f 2, he pointed out that the development of Annex B may make it unnecessary to include the list of elements in inspections.

The representative of the EU found paragraph 4 rather cumbersome to comply with. This should be left to the discretion of the inspecting party. The representative of Denmark (in respect of the Faroe Islands and Greenland) supported the representative of the EU. The Norwegian representative agreed, and found also that paragraph 5 was superfluous.

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The Chairman noted the paragraph came from the model scheme, which was intended also to cover areas of the world where no systems are in place. The representative of Denmark (in respect of the Faroe Islands and Greenland) agreed. It was agreed to take out these two paragraphs.

Article 18 g Obligations of the master of the foreign fishing vessel

This has been copied from the Articles on inspections at sea. The representative of the EU suggested adding “and any information” after “any documents”.

Article 18 h Inspection reports

The Chairman drew attention to the introduction of an Annex C. This and Annex B were taken from the FAO model Scheme. Both may be superfluous. Annex 12 may be the relevant Annex to refer to, with relevant changes introduced. The representative of Denmark (in respect of the Faroe Islands and Greenland) drew attention to the port inspection report form developed by Denmark (in respect of the Faroe Islands and Greenland) earlier. The representative of the EU felt that it was not necessary to include 18 h 3. The master always has the right to contact competent authorities of his flag state.

The flow of information arises also in this Article. The Chairman found that the flag state, both of the catching vessel and a transshipment vessel should be informed. The Secretariat will receive information and how to take it further can be discussed later. The Icelandic representative suggested that “relevant contracting parties” could be defined in Article 1. The Chairman felt that if the instructions were specific they were better placed in the different Articles. The representative of the EU also preferred to have definitions in the relevant Articles.

The Norwegian representative thought that “relevant” would, for example, refer to coastal states with the ownership of a fish stock involved. The Chairman observed that the definitions were instructions to port states and authorities on how to inform other parties. He saw promise in the NEAFC website. The Icelandic representative said it could be linked with the VMS database. Information should be made available automatically on transshipments and catches to the relevant parties. The representative of Denmark (in respect of the Faroe Islands and Greenland) could follow the Icelandic way of thinking. This would, however, not cover transshipments and catches outside the Regulatory Area. The Chairman gave an example of what could be relevant parties, and found it necessary to make information available to as many parties as possible.

Article 19 a should also have a reference to Article 18 h. Article 20 has a reference to relevant Contracting Parties, which has to be amended in line with other Articles. The representative of the EU thanked the Chair for putting the proposal forward.

The Chairman summed up that there did not seem be any problems with the general provisions. The problem lies in the scope, which will decide the applicability of some

provisions. The scope has to be tailored to the feasibility of port state control. One suggestion that had been mentioned to him was to limit the Scheme to frozen fish.

It was agreed that the amendments to the non-Contracting Party Scheme would be discussed tomorrow morning. After that the scope will be discussed.

Lunch break 1-2:30 . First thing after lunch agenda item 5.

5. Questions relating to the implementation of the Non-Contracting Party Scheme

- *Updating of IUU B list*

PE 2006/03 and 2006/04.

The Chairman noted two aspects. Firstly, the change of some names on the B-list. Secondly, the question of removing Sunny Jane and Ozerelje from the list.

The Secretariat informed that the list had been amended with IMO numbers. The Lannis was a mistake and should be taken out. This raises the question of what the Secretariat could do to update the B-list and what had to go through PECCOE and the Commission. The Secretariat had made changes, but not added or removed vessels from the list, only changes in information.

The representative of the Russian Federation asked if the removal of Ozerelje could be done by postal vote. The Secretariat noted that the vessel had in some years been flagged and authorised by the Russian Federation, then another year it had not been authorised and flagged by Dominica. The representative of the EU observed that the non-Contracting Party Scheme stipulates that a Contracting Party shall not authorise a vessel on the B-list (Article 11 2). The representative of the Russian Federation pointed out that the vessel had fished under the Dominican flag before there was any NEAFC IUU B-list. During the period under the Dominican flag it had been under bareboat charter and it had been intended to fish in Mauretania.

The Chairman noted that this seemed to be an anomaly from the time before the B-list was established. It is now a Contracting Party vessel under Russian flag. The representative of the Russian Federation proposed removing the vessels. This also raises the question of the restrictions in Article 11 which effectively block any possibilities of becoming legal.

The Icelandic representative referred to Article 9.3 of the non-Contracting Party Scheme. If Russian authorities had given a quota this should not be assumed to continue as IUU fishing. The representative of the EU pointed out that a vessel of Contracting Parties could not be on the B-list by definition. The Chairman thought it was fair to act quickly both when vessels were added to the B-list and removed. He supported a postal vote.

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This seemed in general to be agreeable to all Contracting Parties, but the Chairman would give Parties time to consider the matter further until later in the meeting.

The Norwegian representative was concerned with the wider ramifications. He drew attention to Article 11 of the non-Contracting Party Scheme. The Chairman said this was a case by case decision. The Norwegian representative accepted this, but this may undermine Article 11. The Icelandic representative saw this a unique case and agreed that future cases will also be handled on a case by case basis. This stresses the need for having case stories in a central data base.

The representative of the Russian Federation noted that probably the vessel was put on the B-list while under the Russian flag. The Secretariat informed that it had at the time been under the impression that there had been two vessels with similar names, one flagged by Dominica one by the Russian Federation. Closer analysis had shown that this was a mistake. The Norwegian representative felt that as the vessel should not have been on the list in the first place its removal should be seen as a cancellation. The representative of the EU thought that we still had to put the decision to the Commission without delay. The matter will be explained to Heads of Delegation.

It was agreed to urge Heads of Delegation to respond quickly in a postal vote.

With respect to changing information on the B-list, the Secretariat was authorised to do this, but the Icelandic representative made a plea for make this transparent and all case stories available. The Chairman wanted also to include references to letters sent to flag states. The representative of the EU wanted a focus on IMO numbers, which would be the most important and stable identification. He suggested that the changes in information should also be passed on to Contracting Parties for decision, together with the decision on Ozerelje.

The Secretariat pointed out that without the possibility to respond immediately to name changes, it would be too easy to get off the B-list. It was agreed that in the future the B-list should first establish the IMO number and then the current name and history of names and other information.

The Chairman reminded the group of the application for non-Contracting Party status for Belize and the removal of Sunny Jane from the B-list, referring to PECCOE 2006/03.

Since the Sunny Jane was put on the B-list it has not been seen transshipping in contravention of NEAFC measures. It had operated as a transport vessel between ports. The Chairman pointed out that imports from Sunny Jane should not be accepted by Contracting Parties, according to Article 11 d. The Norwegian representative drew attention to recent reports on Sunny Jane from the EU port of Las Palmas, which showed that Sunny Jane is still engaged in transshipments in contravention of Belize's own rules. The Icelandic representative agreed with the Norwegian representative that Sunny Jane is still undermining NEAFC measures. He was more surprised that Sunny Jane was receiving services in Contracting Party port. The representative of the EU could agree

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with the points put forward by the Norwegian representative and the Icelandic representative, but referred to the difficulty in getting precise information on what was going on.

The Chairman noted that there was discrepancy between the Scheme and the non-Contracting Party Scheme that had to be tidied up. The representative of the EU informed that the Sunny Jane was still held in Las Palmas. The Icelandic representative found that the application from Belize for non-CP status and the case of getting Sunny Jane off the B-list were not directly related.

With the information at hand PECCOE will not recommend that Sunny Jane is taken off the B-list. Pending information coming from Belize, which has been informed about the report from Las Palmas, the matter may be taken up again in October.

- *Contacts with IUU vessels' owners and/or operators*

This item deals with what had happened with vessels in Rostock harbour, the "Rostock five". The representative of the EU informed about recent developments. It has been the traditional pattern that these IUU vessels overwintered in Rostock. In Germany the Regional Länder have wide authority on matters in the ports. There was no rule that prohibited entry to the port of Rostock, nor the departure. Basic security and environmental services had to be given. There was a discussion of whether there are any rules to deny pilot and towing services. Free movement can only be restricted on the basis of clear legal provision to that effect. Before the matter had been solved the vessels had left. If the regional authorities had put in place a prohibition it would have been possible for the new operator of these vessels to challenge this in court and seek compensation. The regional authorities were supportive, but did not have the regulatory powers to do anything in time. The original operator Pirofish had gone bankrupt. Four vessels are now in Klaipeda, Lithuania and are not receiving any services. The fifth is in Swinoujcie and the local authorities do not have regulatory power to stop them leaving, and this vessel had left to fish.

Since November three vessels on the B-list have been in Portuguese ports and had not received any fuel to enable them to leave. The representative of the EU saw some success for the Scheme in complicating operations for these IUU vessels, but this could have been more efficiently done.

The Chairman noted that there are 19 vessels on the list. Lannis is a mistake and Ozerelje will be taken off. Seven others are in port, held back by lack of services. There is a humanitarian aspect with respect to the crews. The experience over the last year shows that there are practical problems and lack of authority of ports to restrict movements. It seems that the Port States do not have the necessary tools. He invited the Parties to express their views.

The representative of the EU shared these concerns. Amendment of the Scheme is needed urgently. The Icelandic representative expressed surprise that the vessels had received

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services in contravention of Article 11 c. One IUU vessel has already been observed in the Irminger Sea. He wanted information about what the EU intended to do. He found that the non-Contracting Party Scheme was quite clear on this matter. The representative of Denmark (in respect of the Faroe Islands and Greenland) wanted to discuss the problem of vessels stuck in ports and the major problems this caused for port authorities. The representative of the EU responded that these matters were handled by the member states. He informed that an Icelandic company had been reported delivering nets to IUU vessels. There was no immediate solution, but the EU investigated what could be done with respect to the Sunny Jane in Las Palmas and the three vessels in Portugal.

The Icelandic representative pointed out that it was up to the port state to control the delivery of gear etc. whatever the origin was. He wanted some guarantee from the representative of the EU that these matters would not be repeated. The representative of the EU said this was why he suggested amendments to the Scheme to establish measures to stop entry into ports. He pointed out that a NEAFC decision would be immediately binding on the member states. The Icelandic representative quoted from the Annual Meeting Report where the Icelandic representative had been under the impression that the EU was in a position to stop these vessels. The representative of the EU informed that they were only able to do so if NEAFC had established measures with respect to these matters.

The Chairman stressed that there were provisions to deny services, but there was no measure to stop a vessel leaving a port. The representative of the EU suggested that a NEAFC measure should be established that prohibits vessels on the B-list vessel from entering ports. If they have entered port, it is another problem. They may be allowed entry because of safety and medical conditions. The Icelandic representative noted that in Icelandic law these vessels could be denied entry. Safety and security was a different matter, and Iceland has on this basis assisted IUU vessels.

The representative of the EU proposed agreeing measures at this meeting of PECCOE. This could then be decided on in a postal vote. It was important to address this problem quickly. The representative of the EU volunteered to draft a proposal. With respect to the vessels now stuck in ports, they should be denied services apart from those on humanitarian and safety grounds.

It was agreed that the meeting starts at 9 am tomorrow with agenda item 5 and thereafter the scope. The Chairman urged Parties to considering limiting the scope to an extent that made the port measures workable.

The representative of Denmark (in respect of the Faroe Islands and Greenland) asked if he should dig out the original proposal for a port control report. The Chairman felt that would be helpful as preparation for further discussions in October.

- *Following up action for the Rostock 5 vessels*

6. Questions relating to the implementation of the Scheme of Control and Enforcement

- *Definition of “cargo vessels”*
- *Transhipments*
- *Article 11 pilot project*

7. Operational matters

- *Inspectors site improvements*
- *Prototype for REP and JUR reporting*

8. Management of the North Atlantic Format (NAF) and the Advisory Group on Data Communication

9. Any other business

10. Date and place of the next meeting

11. Closure of the meeting