



**NEAFC
PERMANENT COMMITTEE ON CONTROL AND ENFORCEMENT**

3 and 4 October 2006, 10.00 – Tallinn

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**DRAFT SUMMARY RECORDS
4 October 2006 9:10 am to 3:40 pm**

The summary records are intended only for the convenience of participants in the meeting and will only be distributed to participants. They are the sole responsibility of the rapporteur and have not been approved. As the summary records are used as basis of the report of the meeting, corrections and comments to the rapporteur will be appreciated.

1. Opening

Item closed

2. Appointment of the rapporteur

Item closed

3. Discussion and adoption of the Agenda

Item closed

4. Questions relating to the implementation of recommendations

- Article 11 Pilot Project
- Scheme of Control and Enforcement

PE 2006/02/07 1 rev

- Non-Contracting Party Scheme
- IUU Lists A and B

The question about the Ocean Explorer was still outstanding, as was the cooperative status of the Cook Islands.

The Icelandic representative was of the opinion that the Cook Islands had fulfilled the requirements of the Scheme ¹ in explaining its actions after having received a letter from the NEAFC President. The Ocean Explorer should not go to the B-list and be taken off the A-list. Other Contracting Parties concurred.

The Norwegian representative noted that the information put forward by the Cook Islands is not complete. The Chairman went through the requirements in the Scheme ² and the response by the Cook Islands. He had to conclude that they seemed to have responded to everything. The Icelandic representative also thought that they had responded to everything and if anything was lacking the Secretariat could ask for additional information. The EU representative was generally supportive, but would like confirmation that they would be able to fulfil the requirements for example of the NEAFC VMS system. The Icelandic representative pointed out that in the letter of 29 September they confirmed this. Thus PECCOE concluded that the Cook Island have fulfilled the criteria set out in Article 10. The Secretariat was asked to get more details on fishing areas. PECCOE will revert to the issue in November and make its final proposal to the Commission.

¹ **Article 9**

IUU vessel lists

3. At the same time PECCOE shall undertake a review of the 'B' list and as appropriate recommend to the Commission that vessels are added or removed. PECCOE shall only recommend that the Commission remove a vessel from either the 'A' or 'B' list if the flag state of the vessel concerned satisfies the Commission that:

- a) it has taken effective action in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity, or
- b) it has taken measures to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing activities, or
- c) the vessel has changed ownership and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing, or
- d) the vessel did not take part in IUU fishing activities, or
- e) the vessel was only fishing for unregulated resources, fulfilled all relevant obligations as set out in Article 10, or
- f) the vessel was fishing on a co-operation quota and fulfilled all relevant obligations as set out in Article 10.

² **Article 10**

Co-operating non-Contracting Parties

1. Notwithstanding the provisions of Article 9 vessels of a co-operating non- Contracting Party shall not be placed on the IUU vessel list. A non-Contracting Party which seeks the status of a co-operating non-Contracting Party shall submit a request to the Secretary by 30 September, accompanied by a report containing the following information:

- a) Full data on its historical fisheries in the NEAFC area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
- b) Details on current fishing presence in the area, number of vessels and vessels characteristics;
- c) Details of research programmes it has conducted in the NEAFC area, the results of which it shall share with NEAFC.

Furthermore, the non-Contracting Party concerned shall:

- Undertake to respect all Recommendations established under the Convention;
- Inform NEAFC of the measures it takes to ensure compliance by its vessels, including *inter alia*, observer programmes, inspection at sea and in port, and VMS;
- Communicate annually catch and effort data and size frequency distribution of the catches (when possible) in due time and appropriate format for scientific evaluation of the stocks.

2. On the basis of the request submitted according to the provisions of paragraph 1 as well as any other relevant information PECCOE shall recommend to the Commission, if appropriate, that the status of co-operating non-Contracting Party be accorded this status. Non-Contracting Parties accorded this status, which shall be decided by the Commission on a year-to-year basis, shall be invited to participate at plenary and scientific meetings, as an observer.

The Secretariat drew attention to the case of the Cambodian flagged vessel Ice Bay. The Cambodian Registry ISROC had responded to the letter from the NEAFC President and given an explanation of what has happened.³ In summary the owners maintain that the IUU activity had been undertaken by charterers based in Cyprus and the Owners had pulled out of the cooperation with the charterers because of the IUU activity and the vessel had not been involved in IUU activity after that. The Secretariat pointed out that it would necessary to require information from the ISROC with respect to other activity of the vessels and what licences ISROC had issued. The Secretariat will pursue the matter with ISROC.

The Chairman summed up the conclusions and decisions made with respect to the IUU lists and application for cooperative status:

1. A-list: Flags states for the vessels Polestar (Panama), Kabou/Joanna (Guinea) and St. Nikolas (Honduras) have not fulfilled the requirements in Article 9 and all three vessels should move to the B-list. The Cook Islands have fulfilled the requirements in Article 9 and the Ocean Explorer should be taken off the NEAFC IUU lists.
2. B-list: No flag state had submitted information that satisfied PECCOE that effective action had been taken with respect to the IUU activities of the vessels. It was noted that Cambodia had responded with some information and the Secretariat will pursue the matter and require further information about the Ice Bay. It was also noted that Belize has fined and de/flagged the Sunny Jane.
3. PECCOE concluded last year that Belize had in its application for cooperative non-Contracting Party status fulfilled the requirements in Article 10 of the non-Contracting Party-Scheme. It reached the same conclusion with respect to the Cook Islands at this meeting. However, it instructed the Secretariat to require more detailed catch data from the Cook Islands authorities. The Committee will the make its final proposal to the Commission.

The Icelandic representative asked the representative of the Russian Federation if there had been any response from the Russian authorities with respect to the Georgia flagged vessel that had been allowed into a Russian port in contravention of Article 11 of the non-Contracting Party-Scheme as promised yesterday. The representative of the Russian Federation outlined the chronology of the matter. He accepted that the case was very serious and referred to ongoing investigations. The result will be reported to the Secretariat for distribution to Contracting Parties. The Norwegian representative informed that Pavlovsk could not be in Kaliningrad as it had been denied access to Kristiansund, Norway, yesterday. The Norwegian authorities had been informed that the vessel was in the process of being reflagged to Russia. The EU representative pointed out that information on the approach of these vessels to the Baltic had been circulated to all FMCs and Heads of Delegation. The representative of the Russian

³ **E-mail from ISROC 19 September 2006:** *Delivery of the vessel to the Charterers took place on 14.03.2005 / 17:00 UTC in Port of Vigo, Spain. During that period of time, the vessel was following the Charterer's instructions according to the terms of Charter party. For any information regarding cargo operations of m/v "ICE BAY" during the period of 14.03.2005 – 22.04.2005 please don't hesitate to contact the Charterers and / or Brokers directly. The vessel was redelivered from Time charter to the owner on 22.04.05 / 17:30 UTC in region of Barents Sea. The shipowner refused to keep any further cooperation with this Charterer and withdrew the vessel from time charter after he did not receive a clear answer from the Charterers regarding co-operative work with NEAFC during the time charter period. Before and after the aforementioned charter no illegal or inappropriate actions were fixed either by the vessel, crew, operator or the ship's owners during that period."*

Federation had no information about this. The Icelandic representative made a statement highlighting their concern with respect to IUU fishing (Annex I).

5. Review of compliance

- Contracting Parties
- Non-Contracting Parties
- Experience gained with IUU B list vessels' use of "Force majeure"

Item closed

6. Port State Control - new consolidated recommendation replacing the Schemes

Chapter V – Port State Control of foreign vessels.

The Chairman summed up discussions on how to integrate the port state control elements in a consolidated scheme.

Article 21- Scope: The representative of the Russian Federation reminded that there had been a difference in opinions on scope at the meeting in April. He noted that the Commission had not wanted to give advice on scope in November 2005. The representative of the Russian Federation had a mandate to accept the scope of Regulatory Area and Regulated Resources for port state control. The Chairman noted that the scope had been a central question at the PECCOE Meeting in Reykjavik in April 2005. Questions had been formulated to the Commission, but no clear answer had been given. His impression from the meeting in London in April 2006 had been that there was consensus on scope. If this was not the case the decision on scope had to be decided at a higher level.

The EU representative had the same recollection from the meeting in London, so he was a bit surprised that the representative of the Russian Federation now had another opinion. The EU representative saw the scope of the Convention Area as fundamental to the port state control scheme. However he agreed that PECCOE should not enter into a discussion of scope today, but concentrate on the technical elements to be presented to the Commission in November. Article 21 as it was drafted now was the best solution and best way to combat IUU fishing, included in the Barents Sea. If port state control should be restricted to the Regulatory Area it could undermine the legal activity of vessels respecting the measures set by NEAFC.

The Norwegian representative also expressed surprise at the Russian position, but concurred that PECCOE should continue to sort out technical problems. The Icelandic representative reminded delegates of the discussions earlier and did not understand that the scope proposed could create problems for any Contracting Party. The representative of Denmark (in respect of the Faroe Islands and Greenland) concurred with representatives of the EU, Norway and Iceland, The representative of the Russian Federation could support that work on the technical aspects continued. The Chairman hoped that agreement could be reached on all elements in the chapter with the exception of Article 21, where the Russian position would be noted.

Article 22 – Designated ports. The Chairman described the operation of this system allowing port states to determine if landings had been taken in accordance with NEAFC measures. He noted that ‘port’ would also cover areas outside the harbour where transshipment took place. The representative of the Russian Federation found the text somewhat contradictory with respect to the time of entry into force and the deadline for submitting the list of the designated ports. The EU representative thought the how the new regulations entered into force was a technical issue. There were several options. The text was left as it is until those questions had been agreed on.

Article 23 – Prior notice of entry into port. The Chairman explained the operational details of this Article and the forms involved. The EU representative presented the idea that tracing the origin of fish could be linked to the notification of entry to port. He referred to the systems set up by CCAMLR and ICCAT. The Chairman took note of the remarks, but suggested that first port state control was brought into place before adding new elements. The Icelandic representative supported the idea put forward by the EU and suggested that this should be discussed at the Annual Meeting. The Norwegian representative had nothing against the idea, but felt that PECCOE should concentrate on setting up the port control system in Article 23 and make that operational. The Icelandic representative agreed that it was important to discuss the elements and their operation, but reminded that he had maintained that the coastal state should also be notified and automatic procedures should be set up as far as possible to make the procedures operational. The EU representative in principle supported automation, but doubted that this would be possible from the outset. The Chairman pointed out that all the players involved should be able to operate in the same way and the aim should be to make it as simple and effective as possible.

The Norwegian representative commented on the format of the NEAFC advance Port State Control Notification to be used prior to entry and had prepared a paper suggesting changes to the form. Their main concern was to make room for certification by both the flag state and the port state. The Chairman suggested that the Norwegian representative went through his proposal and circulated it later in the morning. The Icelandic representative agreed and volunteered to assist in the ensuing modification of the form. The result of this could be circulated after the meeting. A number of necessary changes to the form were listed.

The EU representative thanked the Norwegian representative for clarifying his ideas. He noted that not all fishing vessels had IMO numbers. Other points were made, such as including the conversion factors used by donor and receiving vessels. The representative of Denmark (in respect of the Faroe Islands and Greenland) supported that conversion factors used should be mentioned in the notification. The Chairman noted an example from the EU where a receiving vessel had consignments from three different flags and the donor and receiver information did not match. The Icelandic representative noted that live weight was the information needed, but he supported that details on conversion factors should be clearly identified.

The Chairman summed up that the Norwegian and Icelandic representatives should cooperate in amending the form in accordance with the points made.

Article 24 - Authorisation to land or tranship. The Chairman described the details of the Article and stated that this was the central plank of the whole port control scheme.

The representative of Denmark (in respect of the Faroe Islands and Greenland) wondered if the deadline of 3 days in Article 23.1 was enough. The Chairman pointed out that these were 3 working days and that should suffice. The representative of the Russian Federation wanted clarification on the real timescale. The Chairman explained that three working days was the important element. The Icelandic representative asked when a working day starts and should be done with catches that are not confirmed. The Chairman responded that the working days have to be worked backwards from estimated time of arrival. The Secretariat comes in when catches are not confirmed. The Secretariat will have a central overview and thus it becomes apparent what is going on and what confirmation is lacking. The representative of the Russian Federation asked if holidays should be excluded from working days. The Chairman thought that three days would be sufficient for reefers, but there could be problems for fishing vessels landing directly. The EU representative wanted it to be clear what should be sent to the Secretary. The Chairman pointed out that there were three players in the notification process: the vessel, the flag state and the port state. The prior notification form covered all steps of the three players. A copy of this form should be sent to the Secretary. Both Article 23.2 and 24. stipulate that the form should be sent to the Secretary. This is to cover situations where the flag state has not confirmed the requirements in 24.1. Information on this should be shown on the NEAFC website. However, the limited period of 3 working days may make it unreasonable to submit the same form in different stages of completion to the Secretariat. This could mean that the Secretary would be taken out of 23.2 with the reference to the NEAFC website. With a web-based facility this may not be a problem.

Coffee 10:50 -11:05.

The representative of Denmark (in respect of the Faroe Islands and Greenland) suggested that the NAFO text on catches taken inside the NAFO and the NEAFC area should be stowed separately should be inserted in Article 10.4.5. This was agreed.

Article 25 - Inspectors. No comments

Article 26 – Inspections.

15 % had been in square brackets, but was agreed to remove the brackets now.

Article 27 – Obligations of the master of the vessel

Article 28 –Inspection reports

Question had been raised about data protection with respect to inspection reports. It was agreed that they should be on the secure site. The Norwegian representative accepted that this would suffice to allow inspectors access to the information. The EU representative found this appropriate as commercially sensitive data may be involved. It was agreed to amend the text accordingly.

Chapter VI Infringements

The Articles in this chapter are taken from earlier agreed text with some additions related to the port state control and IUU activity.

Article 29 Infringement procedures

Article 30 Insert “and transshipments” in f.

Article 31 Follow up in the case of serious infringement

Article 32 Measures taken by Contracting Parties

Article 33 Reporting of infringements

Article 34 Reports on surveillance and inspection activities

Chapter VII Measures to promote the compliance by non-Contracting Party

Nothing new but a few additions.

Article 35 - Cooperating non-Contracting Party status

Article 36 - Communications by cooperating non-Contracting Party

The EU representative suggested that reference was made to Article 11 in Article 36.new 3 so cooperating non-Contracting Party status has the same obligations as Contracting Parties. This was agreed.

Article 37 - Monitoring the fisheries by cooperating non-Contracting Party

Article 38 - Sightings and identifications of cooperating non-Contracting Party.

Convention Area is introduced in 38.2 as is the specification of transshipment IUU activities in 38.3

Article 39 - Inspections at sea

Non-consent of boarding leads to presumption of IUU activity

Article 40 - Entry into port

Clarification of present arrangements

Article 41 - Inspections in port

Article 42 - Landings, transshipments and joint fishing operations

Article 43 - Notification of presumed IUU activities

Convention Area substitutes Regulatory Area

Article 44 - Report on IUU activities-

Convention Area substitutes Regulatory Area

Article 45 - IUU vessel lists

Reciprocal arrangement set up between NAFO and NEAFC with respect to IUU lists and duty to inform other RFMOs. Vessels on the NAFO list should immediately be placed on the B-list, NAFO will do the same with vessels on the NEAFC B-list.

Article 46 - Follow-up action

The services rendered under force majeure are defined. The EU representative urged being very careful in defining force majeure. This had to be assessed on a case by case basis. The Chairman suggested that force majeure should be linked to the safety of the vessel. The Icelandic representative was of the opinion that mentioning force majeure in the Scheme would weaken it. These matters had to be dealt with by the appropriate authorities, but perhaps the suggestion of the Chairman could be helpful. The representative of the Russian Federation referred to the UNCLOS definition of force majeure. The EU representative concurred with the Icelandic representative. The Norwegian representative noted that force majeure was regulated by rules outside the Scheme. The Chairman asked it would be a problem getting rid of a vessel if the paragraph was taken out. The Icelandic representative did not think so. The EU representative had had several cases and thought there should be ways of getting rid of a vessel. The Icelandic representative suggested that time be given for reflection and would propose some text later in the day. The Chairman wanted the EU to reflect on the consensus of the other Contracting Parties that the reference to force majeure should not be in. As the second option the text could be reviewed. The Icelandic representative had had legal advice that force majeure should not be defined in the Scheme, but should be covered by national legislation.

Article 47 - Action vis-à-vis flag states.

The Chairman listed as outstanding items the proposal by Iceland in PE 2006/02/07 rev 1, the port state notification form which could not be concluded at this session and the proposal by Denmark on boarding ladders. He suggested breaking and returning from lunch at 1:30 pm. He thought that PECCOE should meet for a short meeting on Tuesday 13 November in the margin of the Annual Meeting. The EU representative agreed as did everybody else. PECCOE will meet on 13 November in the afternoon to agree on the final version of the consolidated Scheme.

Lunch 11:50 am - 1:46 pm.

There were three outstanding items in the consolidated Scheme:

Article 46.3. The Chairman asked about the result of the deliberations of the EU. The EU representative reported that they had agreed to support the proposal to remove 46.3.

Proposal from Iceland. The Icelandic representative had revised his original proposal. The EU representative thanked the Icelandic representative for the proposal. They had considered that this could be solved in Article 13.a by changing 6 hours to 2 hours and the same in c. In Article 19 new text should be inserted that allowed inspectors to instruct vessels to wait for up to 6 hours. The Icelandic representative could accept this. The Norwegian representative was not in the position to accept the EU proposal. They did not support a general rule of two hours. They had had the same position 3 years ago. They suggested keeping the text as it is now. The representative of the Russian Federation supported the Norwegian representative.

The Chairman summed up the positions and suggested that a solution be found at the meeting in the margins of the Annual Meeting, either following the Icelandic revised proposal or the simpler EU version. If no agreement could be reached, the text should be kept as it is. The Norwegian representative indicated that they could go along with the Icelandic proposal as it stands where the 2 hours are linked to catch reporting, but not the EU general 2-hour rule.

The Chairman asked the representative of Denmark (in respect of the Faroe Islands and Greenland) to introduce the Port State Control Report Form, doc 4. The representative of Denmark (in respect of the Faroe Islands and Greenland) explained the reasoning behind the form. This form is linked to the prior notification form and has been discussed at earlier meetings of PECCOE. The Chairman suggested that when the notification form had been finally agreed it should be compared to the Port Control Form and the forms aligned.

The representative of Denmark (in respect of the Faroe Islands and Greenland) introduced his proposal on boarding ladders and pointed out that the proposal was identical to the proposal agreed in NAFO. The Icelandic representative noted that this had been extensively discussed a year ago and had been accepted in NAFO. The EU representative concurred. No Contracting Party was against the proposal.

The Chairman requested that the amended prior notification form should be made available to Contracting Parties as soon as possible.

The Secretariat noted that, with the present dates for submitting data to the Secretariat on Surveillance and non-Contracting Party activity, it was very difficult to prepare summaries for meetings starting in the first week of October. The Chairman noted that there were different dates involved for the different submissions. The simplest was to bring the two dates together, for example 1 October, and have the meeting of PECCOE in the second week of October.

7. Review of Attachment V of the Scheme of Control and Enforcement

The Secretariat explained that this item had been discussed earlier in the light of changes in IT security policy or new text in the consolidated Scheme. Contracting Parties were invited to consider if Attachment V needed revision. The present situation was described in PE 2006/02/22 section 3 in a note from the Secretariat. The AGDC will look into this matter tomorrow. Iceland agreed that no major revisions seemed necessary. However there may be a need for mentioning the service provided to SEAFO. Changes a couple of years ago should cover everything else. He noted the NAFO reform and possibly exchange of data between NAFO and NEAFC may also need to be addressed. The Secretariat explained the arrangements with SEAFO. All Attachment V requirements were applicable to both the SEAFO and the NEAFC part of the database. The Icelandic representative thanked the Secretariat for the clarification. He thought that the storage of data at the Secretariat should be considered. The EU representative suggested that the AGDC was the correct forum to discuss this. This was agreed.

8. Mandate from the 20th Annual Meeting

- Conversion Factors

There was no new information on this matter. The Chairman suggested that the Secretariat compiled a table with conversion factors used by Contracting Parties. The main problem is redfish. The Secretariat would look into what was reported to NEAFC. The EU has on their website a list of conversion factors used. The Chairman thought that at least this would give a band of values. This could probably not be solved before the Annual Meeting, but lists may be circulated for information.

9. Mandate from the 22nd Annual Meeting

- Lost and abandoned gear in the Convention Area

The Norwegian representative informed the meeting of their experience with this problem. This also involved funding of removal of ghost nets. The EU representative was aware of the Norwegian experience and reported on an Irish removal experiment. The Norwegian representative noted that this item was linked to the next agenda item. The Chairman summed up that there seemed to be support for doing something, but

the problem was funding. It should be possible to get cost estimates out of earlier projects. The EU representative promised to analyse the Irish project for the next meeting of PECCOE.

10. Mandate from the 24th Annual Meeting

- Setting up regulations for gillnets in the Regulatory Area

The Norwegian representative introduced PE 2006/02/13 on gillnet measures. The problems related to gillnet fishing had been highlighted by the Norwegian representative at the last Annual Meeting. The EU representative had proposed and the Commission had adopted a general ban to use gillnets at depths below 200 m. The Norwegian paper is short and not complete. If the ban is lifted something has to be brought into place and the paper just describes what has been agreed between the industry, managers and scientists in Norway. The EU representative concurred that something had to come in place of the ban, but could not guarantee that the EU would have a proposal in place later this year for implementation in NEAFC. The Norwegian representative felt that if no proposal is ready the present ban should be kept.

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

- NAFO COE and COX proposal

The Chairman explained that there had been a proposal in NAFO which had not been adopted, but was still under consideration. The idea was to compare catches at entry and exit between the two Convention Areas, opening up for a flow of information between the two RFMOs. NEAFC should be aware that this required that the two organisations had to walk in step when moving forward. The Icelandic representative informed that this was based on a Canadian proposal requiring all data from the last catch trip in the neighbouring area. Iceland had been asked to review the proposal and modify it to limit the flow of data to the lowest amount necessary to determine if there was a match.

The Chairman suggested that the item was flagged to the AGDC.

12. Any other business

- VDS Campaign 2005 and 2006 – JRC
- Community Fisheries Control Agency

There was no one available to present these items. They were taken off the agenda of PECCOE as proposed by the EU.

The Secretariat presented the facility on the website to enter catch data directly and the user interface involved. Some of the problems in the present set up were highlighted.

13. Report to the 25th Annual Meeting

The summary records will be circulated for comment

14. Date and place of the next meeting

The Norwegian representative proposed that PECCOE considered a 3 day meeting in October next year. A meeting on the afternoon of 13 November in London will agree on the final version of the Scheme and all annexes to be forwarded to the Commission probably with agreement on all issues except the scope. That meeting will start at 2 pm.

The Group proposes that PECCOE meets just before or after Easter and in the second week of October 2007. The length of the meetings will be considered at the Annual Meeting.

15. Closure of the meeting

The EU representative, supported by other representatives, thanked the Estonian hosts for the good arrangements and hospitality.

The Chairman closed the meeting at 3.51.

Annex I Statement by Iceland

TO THE PECCOE MEETING, 4 OCTOBER 2006

Iceland is very concerned regarding IUU activities and that some Contracting Parties are not compliant with the measures in the Scheme regarding IUU.

Iceland and NEAFC's other Contracting Parties are spending considerable effort in battling IUU and building regulations regarding IUU fisheries. Furthermore, Iceland, in cooperation with the other Contracting Parties of NEAFC, is battling IUU on a global scale. Therefore it is absolutely not acceptable that our own measures are not observed by ourselves while, at the same time, we are putting restrictions on our own fishing vessels which are legitimately undertaking fishing operations.

Iceland encourages other Contracting Parties to do their utmost to battle IUU activity. It is of fundamental performance that the NEAFC Contracting Parties themselves comply in all respect to the measures set by NEAFC to eliminate IUU fishing.