



The United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its eleventh meeting

A note by the Secretariat

The eleventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea was held from 21 to 25 June 2010. It dealt with the topic “Capacity-building in ocean affairs and the law of the sea, including marine science”.

The meeting was as usual split between panel presentations and discussions of various issues, mainly between state parties.

The report from the meeting can be found at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/462/32/PDF/N1046232.pdf?OpenElement>

In addition to the main topic the parties discussed issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea: The following list was suggested:

- (a) Examination of progress in the implementation of the oceans chapter of the World Summit on Sustainable Development;
- (b) Implementation of existing international instruments;
- (c) Liability and compensation for the adverse effect of environmental damage;
- (d) Transfer of marine technology;
- (e) Measures against illegal, unreported and unregulated fishing;
- (f) Improved fisheries monitoring, control and surveillance and other measures against illegal, unreported and unregulated fishing;
- (g) Conservation of marine resources and measures which can be taken by States in this regard;
- (h) Conservation of the marine environment, with an emphasis on maritime safety and navigation;
- (i) Responsibilities of flag States in all ocean affairs;
- (j) Ecosystem-based approaches to adaptation and mitigation of the effects of climate change on oceans and coasts;
- (k) Capacity-building for the research and collection of marine fisheries resources data;
- (l) Capacity-building for the research and collection of marine fisheries resources data and management advice;
- (m) Improved fisheries statistics;
- (n) The Rio+20 process;
- (o) Threats to the oceans.

The NEAFC Secretariat made had two interventions, which are annexed to this report



1st Statement by the NEAFC Secretariat at the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea - Eleventh meeting 21-25 June 2010 UN New York

NEAFC has over the years had contacts with the MCS network and participated in earlier expert workshops. NEAFC at the moment cooperates with FAO and IMO to establish a global record of fishing vessels, by supplying vessel data for pilot run of a Global Record database design. It is expected that the global record will be a powerful tool in combating IUU globally.

In the North Atlantic results in combating IUU fishing have been very good. The NEAFC tools to combat IUU fishing are part of the NEAFC Scheme of Control and Enforcement, first agreed in 1999 and continuously adapted to meet new challenges in the fight against free riders in the fisheries regulated by NEAFC. The Scheme's primary objective is to control the fishing activities of fishing vessels of Contracting Parties, but it has been extended over the years to combat IUU fishing by non-Contracting Parties effectively.

The two main tools have been the blacklisting of vessels under flags of non-Contracting Parties to NEAFC and the Port State Control System which controls all the landings of frozen fish into ports of NEAFC Contracting Parties. In addition NEAFC Contracting Parties have national measures controlling IUU activity.

Below you will find some recent information and statistics on the running of these to aspects of the NEAFC Scheme.

Blacklists

NEAFC introduced blacklists of vessels from non-Contracting Parties, which undermine the effectiveness of its regulations in 2005.

The Scheme of Control and Enforcement was changed and introduced two IUU lists. The observation A-list and the permanent B-list.

The Contracting Party which sights the non-Contracting Party vessel shall attempt to inform such a vessel without delay that it has been sighted or by other means identified as engaging in fishing activities in the Convention Area and unless its flag state has been accorded the status of co-operating non-Contracting Party is consequently presumed to be undermining the Recommendations established under the Convention

The Secretary shall transmit all information ...to all Contracting Parties and other relevant Regional Fisheries Management Organisations within one business day of receiving this information, and as soon as possible to the flag state of the vessel identified as being engaged in fishing activities in the Convention Area.

The Secretary shall, in consultation with the President of the Commission, request that it take measures in accordance with its applicable legislation to ensure that the vessel or vessels in question desist from any activities that undermine the effectiveness of NEAFC Recommendations, including if necessary, the withdrawal of the registration of these vessels or their authorisation to engage in fishing activities.



If no satisfactory answer is received by from the flag state of a presumed IUU vessel it is transferred from the observation list to the permanent list. This effectively closes all NEAFC ports to these vessels and no services can be rendered in the NEAFC Area. NEAFC, NAFO and SEAFO share IUU lists, so ports will also effectively be closed in the NAFO Contracting parties incl. US, Japan and Korea and parts of West Africa.

Since then 26 vessels have been put on the B-list. The statistics below show that with the knowledge at hand only one vessel is left, which has positively been indentified to have undertaken IUU fishing the last year. 3 have left the NEAFC Area and for 5 the fate is unknown. 8 have been scrapped, 3 have been sitting ports for several years and 3 have been removed from the B-list after application.

	Vessel category	
	Transport	Fishing vessels
Removed from the lists	2	1
Scrapped		7
Retained in harbours	1	4
Probably sunk	1	1
Observed recently		1
Fate unknown		5
Operating outside NEAFC Area	1	2
Sum	5	21
Total		26

It should be noted that the blacklisting has hit transport vessels as well as vessels fishing. Indeed the targeting of the transport vessels was the major breakthrough, which in all practical terms eradicated the IUU fishery for redfish in the Irminger Sea.

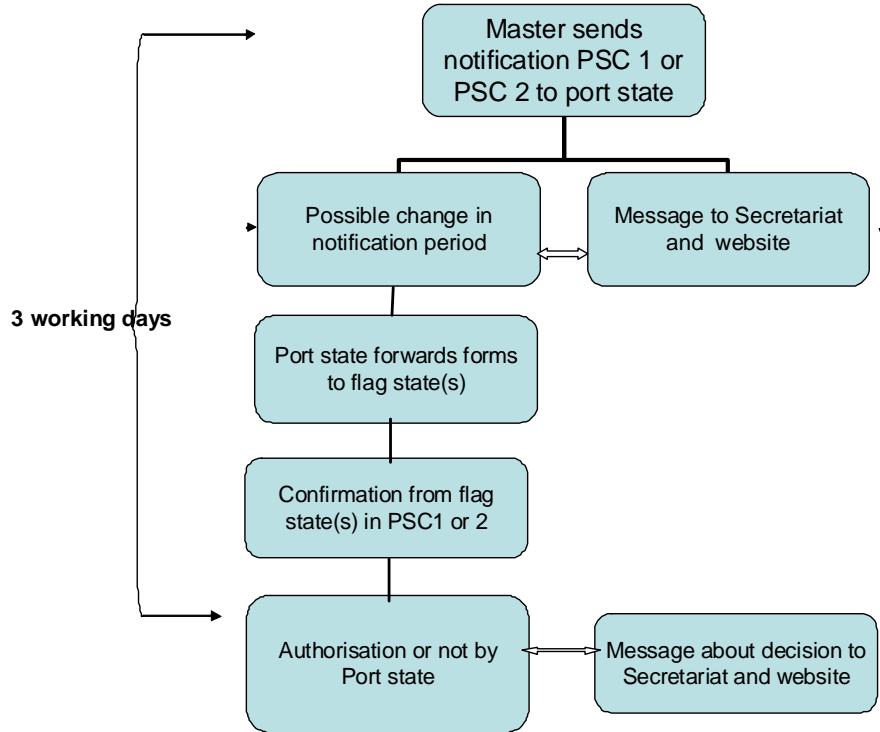
Port State Control System

1st May 2007 NEAFC introduced its Port State Control System. Landings of frozen fish in ports of NEAFC Contracting Parties is only allowed in designated ports. 25 % of the landing have to be inspected by port authorities. The flow of information is shown below:



Port state control of foreign vessels

Article 22-23 of the consolidated Scheme entering into force 1 May 2007



The system was introduced without major problems and the authorities involved have carefully followed the timelines set out thus not impeding the flow of legal fish to European processors. The measure has been deemed to have had dramatic effect on the amounts of illegal frozen fish in Europe, reducing levels of IUU fish into European markets significantly.

Below is seen a copy of a small part of the file, at the NEAFC Inspector’s website, on transactions according to the System, having reached over 2600 in late February 2009. (Vessel names have been taken out). The file, daily updated at the NEAFC Secretariat, makes it possible for all parties in NEAFC - on a real time basis – to follow landings of frozen fish allowing them to review all the transactions. The basic PSC forms for each transaction are also available to inspectors.

The NEAFC website publishes all information on the Scheme, the discussions of the NEAFC Permanent Committee of Control and Enforcement A and B-lists and the Secretariat is always open to share information and experiences with interested parties and respond to enquiries. We also disseminate

No	form	Port	Country	Date_Post ed	Landing Vessel	Vessel Call sign	Info Flag	Donor Vessel	Vessel Call sign	Info Flag	Status
2602	PSC2	Velsen	Netherlands	26/02/2009			RUS			RUS	Accepted
2601	PSC2	Velsen	Netherlands	26/02/2009			RUS			RUS	Accepted
2600	PSC2	Velsen	Netherlands	26/02/2009			RUS			RUS	Accepted
2599	PSC2	Velsen	Netherlands	26/02/2009			RUS			RUS	Accepted
2598	PSC1	Melbu	Norway	26/02/2009			RUS			-	Accepted
2597	PSC1	Hammerfest	Norway	26/02/2009			RUS	-	-	-	Accepted
2596	PSC1	Tromsø	Norway	26/02/2009			RUS	-	-	-	Accepted



2nd Statement by the NEAFC Secretariat at the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea - Eleventh meeting 21-25 June 2010 UN New York

At last year's meeting of the ICP presentations on the development of ICP were very instructive and the points made by a number of States made clear the usefulness and role of ICP as forum for discussing the implementation of UNCLOS. The meeting this year has, I think, reinforced that impression. A lot of useful information on capacity building has come forward, but although the effort is impressive there is a feeling that better overall coordination may give added value.

Having said that the ICP meetings have been useful does not mean that it has been efficient as a vehicle for raising issues that could benefit from the attention of the UN General assembly. One has to conclude that in several instances discussions in ICP have led to a lack of focus in the approach in the UN General Assembly and got UNGA involved in specific issues that are not global in nature and are better dealt with by regional and local forums.

At the centre of the concern of UNGA must be the totality of impacts of all human activities on the marine ecosystems and that these are reduced appropriately to avoid irreversible changes of marine ecosystems.

But out of the complex and majestic legal framework of UNCLOS, dealing with all human activities in the oceans, fisheries are singled out for a separate General Assembly resolution of 148 paragraphs, which over the years has become more and more detailed in prescribing what States, and States through RFMOs and RFMAs, have to do.

This is rather surprising. Where a good case for oversight from the UN can be made with respect to ocean issues that are global of nature (Climate change, transboundary pollution, release of chemicals, hazardous substances, Persistent Organic Pollutants, oil in produced water, radioactive discharges, non-indigenous species and marine litter) the impact on the environment from fishing activity is generally local or regional and therefore best addressed in regional and sub-regional cooperation.

Other uses of the marine environment have externalities that directly affect fisheries. Polluters, the user of fossil fuels, shipping, hydrocarbon and other extraction industries would have no problems operating in a highly polluted ocean with no biodiversity, but fisheries cannot. Fisheries have to operate in a clean and healthy marine environment. The consequences of mismanagement of fisheries are primarily internal, first and foremost affecting fisheries themselves.

The disproportionate focus on fisheries is even more surprising, when considering the ecological importance of the biodiversity of the Oceans. The huge importance of the oceans lies in its role in the carbon and sulphur cycles. The biodiversity that matters here



is the diversity of microscopic organisms. The importance of the marine organisms exploited by hunters and fishermen is marginal in that context. These microscopic organisms are not affected by fisheries, but probably by other anthropogenic activities on a global scale.

Looking at the types of fishing activities the UN General Assembly has been most concerned about again there seems to be disproportion and lack of focus.

IUU fishing and deep sea bottom trawling in areas beyond national jurisdiction are problems, which should be eminently manageable, if there is a political will. There are two types of issues that should not be confused: The fisheries for highly migratory, mostly top predator pelagic species that migrate through international waters and several EEZs, and the fisheries for straddling stocks, including major fisheries for smaller pelagics and deep sea bottom fisheries. The key is of course controlling the limited number of vessels directly.

The real challenge in world fisheries must lie in supporting governance and sustainable utilisation in inland, coastal areas, small scale and shelf fisheries, because of their huge importance in poverty alleviation, food security and employment and in addressing the perverse economic incentives in fisheries, which lead to a reduction wealth generation. (The sunken billions – World Bank).

The RFMOs do not need global mandates. Their conventions already give them regional mandates and tools to perform their job according to international law. They do not need a UNGA resolution to prescribe to them, what they already are obliged to do and can be held to account for by their Conventions. Regional Fisheries Bodies, RFBs, which support states and regional cooperation, are also able to define their own priorities.

The representation of RFBs in general at the ICP has been very patchy and to some extent nonexistent. There has been a lack of a regional voice. This could be because of lack of resources or because RFBs see the discussions in ICP as duplication of discussions already had in FAO COFI and the biennial Regional Secretariats Network meetings. At the UN General Assembly Regional Fisheries Organisations are not observers.

The stakeholders that will have to shoulder the consequences of any measures coming out of discussions in ICP and eventually passed on to UNGA are not represented at these meetings either. It is quite difficult to involve stakeholders in global discussions for a number of reasons. Regional and local discussions have a better chance to reach the correct participatory balance in decision processes.