Proposal by Norway

to amend the Terms of Reference for the Working Group on the Future of NEAFC

Background

Following increased fishing activities in the NEAFC Regulatory Area in the early nineteen-nineties, the Commission decided to transform NEAFC to a full-fledged regional fisheries management organization (RFMO), including the establishment of an in-house secretariat. Secretarial functions were at that time handled by British authorities.

In order to assist the Commission in that process, the Commission at the annual meeting in 1996, established two working groups; A Working Group on Control and Enforcement Measures in Respect of Fisheries Conducted in Areas Beyond the Jurisdiction of Contracting Parties, which later was superseded by PECCOE (now PECMAC) and a Working Group on the Future of NEAFC.

The Working Group on the Future of NEAFC was provided with the following Terms of Reference:

“Evaluate the structure and function of the Commission, a) measured against the provisions of the Convention and b) in the light of UNCLOS and the development of relevant international law, in particular the UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, and the FAO Code of Conduct for Responsible Fisheries.

In its work the Group shall:

- Take into account the increased fishing activity in areas beyond national fisheries jurisdiction
- Take into account the development within other regional fisheries organizations or arrangements
- Elaborate possible alternatives relating to appropriate objectives of NEAFC
- Consider the usefulness of establishing new committees, inter alia, a Committee for scientific advice
- Consider the implications for the role and activities of the Secretariat including cost considerations in light of the above
- Investigate whether the anticipated future role of NEAFC would require new recommendations under the Convention or require amendments of the Convention and, if appropriate, make proposals to the Commission to that effect”

In its early stages, the Working Group developed Rules of Procedure, Staff Rules and a Scheme to Promote Compliance by Non-Contracting Parties. In 2002-04 the Working Group developed Dispute Settlement Procedures, which were adopted by the Commission in 2004 as amendments to the Convention. In 2004 the Working Group also discussed the emerging focus on bottom fishing at the United Nations, which at the annual meeting that year lead to
the first closures of high seas fishing areas in the world as three areas were closed to bottom trawling and fishing with static gear. A system for addressing bottom fishing was developed in 2005-06 by the Working Group, which later was refined by PECMAS (established in 2006).

At the annual meeting in 2005, the Commission decided that NEAFC should be subject to a performance review (as the first RFMO), and the Working Group on the Future of NEAFC was tasked to develop assessment criteria and procedures for the review, which were adopted by the Commission by correspondence early 2006. The review Panel submitted its report to the annual meeting in 2006, and the Working Group on the Future of NEAFC was requested to address in more details some of the recommendations provided by the Review Panel.

In 2005-06 the Working Group developed additional amendments to the Convention by including modern principles for fisheries management as reflected in the UN Fish Stocks Agreement (UNFSA) and the FAO Code of Conduct for Responsible Fisheries, which were adopted by the Commission at the annual meeting in 2006.

In 2007 the Working Group on the Future of NEAFC examined the outcome and recommendations of the UNFSA Review held in 2006 and their implications and relevance to NEAFC.

As a consequence of the establishment of PECMAS and that issues related to non-contracting parties were handled by PECCOE (now PECMAC), the Working Group on the Future of NEAFC did not meet in the period 2007-11. At the annual meeting in 2012 the Working Group was given a mandate to review the Rules of Procedure and propose required amendments as necessary. The Working Group developed a series of amendments which were adopted at the annual meeting in 2013.

At the annual meeting in 2013, the Commission decided to modify the Terms of Reference for the Working Group on the Future of NEAFC to the following:

“The Working Group shall be assigned its tasks by the Annual Meeting of NEAFC.

In order to further strengthen NEAFC and secure that NEAFC remains a modern and effective RFMO, the WG on the Future of NEAFC shall identify challenges in order to be able to fulfil its objective.”

NEAFC was subject to a second performance review in 2014. The Commission discussed and addressed many of the Panel’s recommendations at extraordinary meetings in 2015. There were some discussions whether the Working Group on the Future of NEAFC should be given any follow-up responsibilities, but the Commission decided to establish two distinct working groups; a Working Group on Allocation Criteria and a Working Group on Framework for Coastal State Negotiations. It should be noted that in many other RFMOs the status of implementation for recommendations arising from performance reviews are recurring agenda points at annual commission meetings.

The Working Group on the Future of NEAFC has not met since 2013.
At the annual Commission meetings, the Secretary reports on relevant international meetings attended by him or his staff. In his overview in 2018 the Secretary states that “the aim of attending the engagements varied depending on the meeting but includes highlighting NEAFC and its Contracting Parties’ progress and developments in implementing its objectives in fisheries management. NEAFC’s experience, expertise and knowledge can help inform and strengthen other organizations work on fisheries and oceans. The role of regional cooperation is of particular interest currently given ongoing developments in ocean governance.” The reports by the Secretary are noted by the Commission without much discussion.

There are many meetings, initiatives and processes with relevance to NEAFC as an RFMO.

Last year the Commission welcomed the signing of the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean and noted that parties to that agreement underline the importance of ensuring cooperation and coordination between them and NEAFC.

The UN General Assembly annually adopts the so-called “fisheries resolution”, which contains a series of calls, appeals and encouragements to RFMOs related to the implementation of UNFSA, including achievement of sustainable fisheries, IUU fishing, MCS, bycatch and discards, responsible fisheries in the marine ecosystem, and sub-regional and regional cooperation. In addition, the Informal Consultations of State Parties to UNFSA are now convened annually at the UN Headquarter focusing on specific topics relevant for the implementation of the agreement, with subsequent recommendations to RFMOs. It should also be noted that the Review Conference under UNFSA is an ongoing process, and a fourth session is expected to be convened in 2021.

Currently, also at the United Nations, negotiations take place for a new implementing agreement under the Law of the Sea Convention that will focus on biodiversity in areas beyond national jurisdiction (the so-called BBNJ-process), which also will have impacts on fisheries and consequently in particular the work of RFMOs with mandates on the high seas.

The FAO is an important provider of inputs to RFMOs, both by reports on best practices, through the Regional Fishery Body Secretariats’ Network and not at least at the biennially meetings of the Committee of Fisheries. A series of additional meetings of RFMO relevance are also convened under the auspices of FAO.

Other RFMOs also take actions that could be of interest to NEAFC. The tuna-RFMOs met for some years under the so-called KOBE-process with the aim of coordinating efforts. There have been calls for generic RFMOs to embark on a similar process, but so far no concrete initiatives have been taken. However, inspiration and some kind of coordination could be achieved by examining the annual Commission reports of other RFMOs.

Furthermore, intergovernmental organizations such as ILO, IMO, OECD and WTO from time to time address issues that may touch upon the work of RFMOs.

In order for NEAFC to respond to inputs and recommendations deriving from the abovementioned meetings and processes, Norway proposes to revitalize the Working Group on the Future of NEAFC as a link between the international arena and the Commission. Some
issues would be relevant to PECMAC, while others should be further examined by PECMAS. In this regard the Working Group on the Future of NEAFC could have a coordinating role by identifying and forwarding issues to these bodies, and also address those additional issues (those not relevant to PECMAC or PECMAS) and inform or propose actions to be taken by the Commission, as appropriate.

Noting that PECMAC usually meets in April and September, while PECMAS meets in October, the Working Group on the Future of NEAFC should meet in January or February.

Proposal

Norway propose to amend the Terms of Reference for the Working Group on the Future of NEAFC as follows:

“The Working Group shall be assigned its tasks by the Annual Meeting of NEAFC.

“In order to further strengthen NEAFC and secure that NEAFC remains a modern and effective Regional Fisheries Management Organization (RFMO), the Working Group on the Future of NEAFC shall identify challenges and relevant international developments in order for the Commission to be able to fulfil its NEAFC’s objective. In this regard it shall annually examine developments at the United Nations and the FAO, as well as relevant actions taken by other RFMOs and other relevant intergovernmental organizations. It shall also take into account the relevant recommendations from any future NEAFC performance reviews.

Issues relevant to PECMAC and PECMAS shall be forwarded to those bodies respectively.

The Working Group shall be assigned its additional tasks by the Annual Meeting of NEAFC Commission, as appropriate.”