Overview of arguments concerning the scope of PSC

At present, the NEAFC PSC measures are applicable to frozen fish from the Convention Area and were introduced to combat the IUU fishery of cod in the Barents Sea by freezer trawlers. Frozen catch was targeted as cod is not a regulated species in NEAFC. This is generally perceived as an effective deterrent to IUU fishing.

In view of the alignment of the Scheme with the FAO PSMA, there are two different views among Contracting Parties regarding the issue of whether the scope of the PSC should be extended to include all fish, both fresh and frozen.

The main points put forward by those that favour extending the scope are the following:

- The FAO PSMA applies to all fish, regardless of whether it is fresh or frozen. There is a risk of IUU catches in both fresh and frozen fish landings. Hence, leaving fresh fish out of the scope of Chapter V would mean that NEAFC does not have port state measures that are comprehensive.
- Not including fresh fish into the scope means leaving a substantial part of the fisheries in the Convention Area outside the NEAFC port state measures. Such a deviation from the FAO PSMA can be difficult to explain and defend.
- As all CPs have stated that they will become parties to the FAO PSMA, there will not be a real increase in the burden on the CPs if the scope of Chapter V is expanded, just a decision to do the work formally through NEAFC.
- Not expanding the scope will, however, require CPs to implement a separate system for CP vessels carrying fresh fish. Having two separate systems for port state control, one for NEAFC and one for FAO PSMA, can lead to confusion and will be an unnecessary burden for the port authorities, the FMCs and the fishing vessels, in particular where vessels are landing both fresh and frozen fish.
- Landings and transhipments of fishmeal are currently not covered by the Scheme as fishmeal is not frozen. However, fishmeal can be produced from by-products from the production on board and from unspecified species caught in the Convention Area.
- FAO PSMA Articles 6 (3) calls for cooperation in its implementation, including through RFMOs. Furthermore, in Article 12 (2) expresses that parties shall agree on levels of inspections, as appropriate through RFMOs, FAO or otherwise. For there to be comprehensive cooperation in our region, this will have to be done through NEAFC.
- There is already an agreement on cooperation between EU, the Faroe Islands and Norway with regard to control of pelagic species, according to which the minimum level of control is 10% of the landings in numbers and 15% of the quantities landed. Hence, the requirements for control of fresh fish landings already apply to some extent between these parties.
- NEAFC has been a pioneer in developing port state measures and all the CPs took an active part in the negotiations of the FAO PSMA. It would be a shame if NEAFC was to fall behind other RFMOs in implementing the FAO PSMA.
The main points put forward by those that favour maintaining the current scope are the following:

- The FAO PSMA applies to NEAFC Contracting Parties individually in their capacity as a port State. Through NEAFC, Contracting parties should cooperate in the effective implementation of the agreement and in the exchange of relevant information.
- The current NEAFC PSC measures are in many ways superior to the minimum standards set by the FAO PSMA.
- Expansion of the scope of NEAFC PSC is not needed to effectively implement the PSMA, as the relevant States will have an obligation to implement FAO PSMA regardless of whether it is through NEAFC or not. The EU already has domestic legislation in place which would meet the requirements of the FAO PSMA. There is no contradiction in being fully committed to implementing the FAO PSMA while maintaining the current scope of NEAFC PSC.
- The majority of fresh fish landings in the Convention Area are outside port State control as they are landings by CP vessels into their own CP ports. They would therefore be outside the scope of the FAO PSMA.
- There are no known problems with landings of fresh fish to be addressed in the NEAFC context, particularly in the area of IUU fishing. Extension of the scope would therefore create a four-fold increase in the control and enforcement burden without any perceived added value. PSC was set up to address actual identified problems, and this would be a step backwards from that.
- By expanding the scope of the NEAFC PSC, CPs run the risk of watering down the Scheme to the minimum standards set by PSMA and of diverting the inspection resources from real problem areas to secondary issues. It would therefore weaken rather than strengthen NEAFC PSC as a tool to combat IUU.
- Whereas FAO PSMA would require CPs to seek to agree on the minimum levels for inspection through NEAFC, there does not appear to be any methodology for devising an effective benchmark for inspection of fresh fish. In the absence of a realistic benchmark, it would hardly make sense to expand the scope of the Scheme to fresh fish.
- The benchmark for inspecting non-Contracting Party vessels entering into CP ports is already 100% regardless of whether the fish on board is frozen or fresh. Extending the scope will therefore not step-up inspections of non-Contracting Party vessels, but would only be relevant for Contracting Party vessels.
- There have not been any problems in implementing the NEAFC PSC and the requirements of the FAO PSMA separately, and this should therefore not be considered as either complex or burdensome.
- Rather than expanding the scope of the PSC Scheme, due consideration could be given to limiting the scope of the NEAFC PSC measures to species regulated by NEAFC in order to avoid interference with PSC Schemes of other RFMOs, e.g. if species managed by ICCAT were not explicitly excluded.

The EU pointed out that full implementation of the FAO PSMA could be clearly highlighted by simply keeping those provisions of the Scheme that go beyond the ‘minimum standard’ set by the FAO PSMA. This is the legal drafting technique used in the NEAFC Recommendation establishing procedures for the settlement of disputes. Obviously CPs would concurrently implement their own port State measures as required by FAO. This approach would eliminate criticism from outside stemming from wrongly perceived non-implementation of the FAO PSMA by NEAFC.