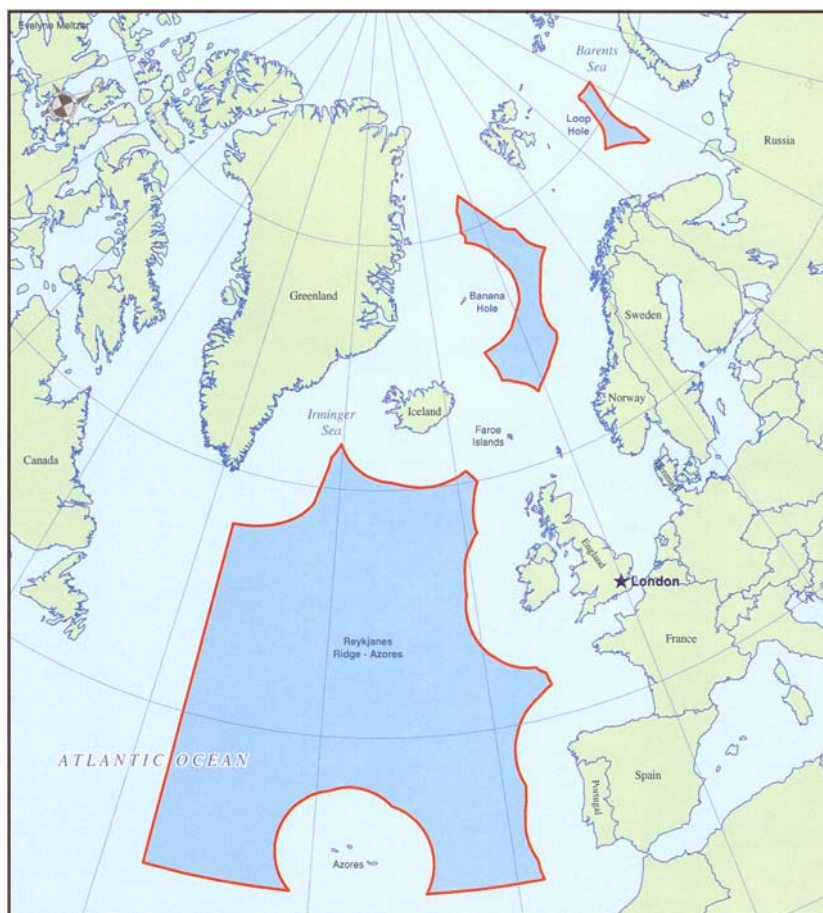




Performance Review Panel Report of the North East Atlantic Fisheries Commission, NEAFC



For illustration purposes only.
Map Projection: Lambert Conformal Conic
Standard Parallels: 48°N, 77°N
Central Meridian: 25°W

Global Overview of Straddling and Highly Migratory Fish Stocks. Evelyn Meltzer, working copy 04/2005

**North East Atlantic Fisheries Commission
(NEAFC)**

— RFMO Boundary

★ Headquarters: London, England

Foreword

In conducting this review we have remained conscious throughout that our review of the North East Atlantic Fisheries Commission ('NEAFC') is one of the first of its type and Parties of the Convention on Future Multilateral Co-operation in the North-East Atlantic Fisheries and many observers will be looking with interest not only at the outcome of the review but also at the robustness of the process followed.

The three external Panel members have prepared this foreword in order to address the latter concern and, in particular, to make transparent their views of the benefits and constraints of selecting a Panel consisting both of people involved directly in the business of NEAFC and of three external advisors.

The Panel was given terms of reference and a set of criteria by NEAFC. The Panel worked on that basis but nonetheless identified limitations or concerns with the criteria and approach given. As a result, the Panel agreed that while the criteria could have been constructed differently, all issues to be reviewed could be, and appropriately were, raised within the framework provided. It nonetheless should be noted that the Panel was not asked to provide their views on proposed solutions but rather to simply identify areas of improvement required.

The Panel was aware that the fact that some of the Panel members were 'internal' members of NEAFC raised the spectre of a conflict of interest and the potential to overstate performance or 'hide' non-performance. Such concerns would have been present regardless of the structure of the Panel, as no such review can proceed in ignorance and must often depend on inquiry amongst those directly involved in the activities of the organization concerned. In fact, the Panel was privileged in having three members who held key positions within the NEAFC structure and who brought to the table a wealth of institutional knowledge. This benefit cannot be overstated as it meant that the Panel could spend more of its limited time debating key performance issues rather than in researching their history. In practice, the external Panel members were unopposed in adopting an inquisitorial approach towards our colleagues, in order to gather information and test assumptions. The Panel found this approach constructive and effective.

The three external members were selected on the basis of a decision by the NEAFC Commission that the Panel should include: a fisheries management expert nominated by the Fisheries Department of the Food and Agriculture Organisation of the United Nations (FAO); an international law of the sea expert nominated by the United Nations Division for Oceans Affairs and the Law of the Sea, Office of Legal Affairs (DOALOS); and a marine scientist nominated by a scientific institution, based outside the North East Atlantic area. The selection process itself included a level of independence, given NEAFC's decision to seek guidance from the aforementioned institutions for identifying the appointees.

At first, the external members had some concerns about the level of information that was immediately available to the Panel, given that Panel members themselves had few resources and limited time available to carry out additional research. This concern was however offset by the amount of written material available on the activities of NEAFC, which allowed the Panel to reach its informed conclusions. It should nonetheless be realised that this review was carried out with a very small budget both in time and

resources. More detailed analysis would certainly have been welcomed but we believe our key findings would have changed little except in detail.

Overall the Panel believes that the approach adopted was effective and the outputs unbiased by the construct and conduct of Panel members. In principle, we would recommend that the inclusion of both internal and external Panel members is a successful approach that could be adopted in future exercises of this kind, particularly where resources are limited. We nonetheless realise that the way such a small group operates will always be influenced by the particular individuals that constitute it.

An added advantage of having a mixed group is that, while our primary responsibility was to act as a review team, the review and debate that ensued also provided capacity building opportunities for all those concerned. All Panel members welcomed, and learnt, from these opportunities.

6 November 2006

Michael Arbuckle, nominated by the Fisheries Department of the Food and Agriculture Organisation of the United Nations (FAO);

Bruce Atkinson, nominated by the Department of Fisheries and Oceans, Canada.

Valentina Germani, nominated by United Nations Division for Oceans Affairs and the Law of the Sea, Office of Legal Affairs (DOALOS);

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Abbreviations and Acronyms

COFI	Committee on Fisheries, FAO
CWP	The Coordinating Working Party on Fishery Statistics, FAO
EU	European Union
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization of the United Nations
FIGIS	Fisheries Global Information System, FAO
FIRMS	Fishery Resources Monitoring System (part of FIGIS)
ICP	Informal United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (former UNICPOLOS)
IUU fishing	Illegal, Unreported and Unregulated Fishing
NGO	Non-Governmental Organisation
REIO	Regional Economic Integration Organisation
RFMO	Regional Fisheries Management Organization
VMS	Vessel Monitoring System
UN	United Nations
UNDOALOS	United Nations Division for Oceans Affairs and the Law of the Sea
UNFA	The 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement)
UNCLOS	The 1982 United Nations Convention on the Law of the Sea

Regional Fisheries Bodies and Regional Seas Programmes

CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
GFCM	General Fisheries Commission for the Mediterranean
IATTC	Inter-American Tropical Tuna Commission
IBSFC	International Baltic Sea Fishery Commission (wound up in 2005)
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICES	International Council for the Exploration of the Sea
IOTC	Indian Ocean Tuna Commission
IPHC	International Pacific Halibut Commission
NAFO	Northwest Atlantic Fisheries Organization
NARFMO	North Atlantic Regional Fisheries Management Organization
NASCO	North Atlantic Salmon Conservation Organization
NAMMCO	North Atlantic Marine Mammal Commission
NEAFC	North East Atlantic Fisheries Commission
OSPAR	Convention for the Protection of the Marine Environment
SEAFO	South East Atlantic Fisheries Organization
SIOFA	South Indian Ocean Fisheries Agreement
SWIOFC	South West Indian Ocean Fisheries Commission
WCPFC	Western and Central Pacific Fisheries Commission

Executive summary

It was agreed at the 24th Annual Meeting of the North East Atlantic Fisheries Commission (NEAFC) that a performance review should be conducted to assess NEAFC's performance as it relates to the Convention on Future Multilateral Co-operation in the North-East Atlantic Fisheries (the Convention), the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFA), and other relevant international instruments.

A six member review Panel was appointed by NEAFC. Terms of reference, including specified criteria, were approved. The Panel's task was to identify achievements and highlight areas where improvement could still be made. Three members of the Panel were selected with guidance from the international institutions and three were selected from inside NEAFC.

In performing this review the Panel was mindful that its role was not to review the RFMO (Regional Fisheries Management Organisation) framework itself, but rather to discharge its mandate under the terms of reference provided. As part of reviewing NEAFC's performance, the Panel remit was also to provide constructive advice on how NEAFC could improve its performance within the set framework.

The Panel based its work on the obligations set out in relevant international instruments, in particular UNFA, and the generally agreed approaches for effective fisheries management as outlined in the FAO Code of Conduct for Responsible Fishing, the supporting guidelines, as well as other relevant technical reports. This involved looking for evidence of robust systems as well as effective processes and governance when evaluating each of the review criteria. The Panel carried out the review during three workshops.

To support this review, the Panel conducted some early analysis of the processes and systems currently in operation in NEAFC. With all the background in mind, the Panel followed a fairly strict procedure of reviewing information, seeking clarification and agreeing statements of facts before moving on to making comments about performance. The main report was kept relatively brief. Detailed analyses are available in the Appendices. The structure of the report is described further in Chapter 1.

A key objective of NEAFC is to perform its functions in the interests of the conservation and optimum utilisation of the fishery resources of the Convention Area. The Convention Area is characterised by large and highly valuable industrial fisheries which are of considerable social and economic importance to Coastal States. The major straddling fish stocks NEAFC regulates - in some cases with measures which relate to the full range of stocks in the Convention Area and in others only applying to the fishery in the NEAFC Regulatory Area - comprise fisheries for pelagic redfish, herring, blue whiting, mackerel, haddock and a variety deep-sea species. The magnitude of the fisheries in 2004, the last year with full catch data, was about 4 million tonnes in the Convention Area of which 1 million tonnes was taken in the Regulatory Area.

The Panel is satisfied that the legal framework established by the Convention properly and comprehensively encompasses relevant international instruments, or at least those parts relevant to NEAFC operations. In this respect, the Convention has laid a proper foundation for the future management of fisheries in the North East Atlantic. It is therefore of considerable concern to the Panel that the Contracting Parties to the Convention (the wider Coastal States) have, in many instances, been unable to take the necessary steps to effectively implement the Convention by not reaching agreed allocation arrangements in many key fisheries. Lack of progress in this regard relates directly to areas identified by the Panel as being of concern, in particular the need for increasing transparency in some key management processes.

The Panel found that the status of main fish stocks in the Convention Area is at a critical point and, unless effective action is taken promptly, there is a strong possibility that in the future their sustainable use will be compromised. The Panel's work was limited at this point by a lack of information on economic and social benefits. The Panel was therefore unable to make an assessment of the performance of NEAFC in terms of meeting the Convention's objective of optimal utilisation.

Notwithstanding the concerns identified above, the Panel found evidence of strong performance by NEAFC in specific areas of operation, such as in the implementation of the two monitoring and enforcement schemes (within the constraints of the authority given by the schemes), and in international co-operation within the RFMO framework. Some areas of improvement were identified in this respect, but the Panel's comments should not detract from NEAFC's overall successful performance in these areas. NEAFC is well placed to continue in its leadership role.

Looking to the future, the Panel urges NEAFC to make every effort to resolve outstanding allocation issues. In our view, this would pave the way for a change in NEAFC's approach to management, moving away from management driven, bi annual, *ad hoc* negotiations amongst Coastal States, towards management systems driven by transparent objectives and implementation processes. NEAFC has much underused capability and should be able to assume a greater responsibility in carrying out this role.

The Panel was heartened by the steps already being taken in this direction, for example with the establishment of the new Permanent Committee on Management and Science, the support being provided by NEAFC in the development of international capability, and NEAFC's support of RFMO activities.

Towards furthering these initiatives, the Panel suggests that NEAFC takes steps to develop an annual fisheries status report which encompasses not just biological factors for the fish stocks concerned but social, environmental and economic assessments as well. Such an initiative would force greater attention on achieving the objectives of the Convention while

filling the information gaps the Panel has identified. The Panel also believes that such an initiative, if implemented in a transparent manner, would offer an opportunity to draw together and strengthen industry ties, across jurisdictions, and that ultimately this would align collective fishing interests and operating incentives within Convention objectives.

1 Introduction

1.1 The Panel

At the 24th Annual Meeting of NEAFC 14-18 November 2005, the NEAFC Commission adopted the following decision:

‘Recalling the importance attached to evaluating the RFMOs, expressed i.e. at the March 2005 meeting of the FAO Fisheries Committee (COFI), the Commission recommends that a performance review of NEAFC is established.

The purpose of such a review is to provide for a systematic check of the performance of the organisation and its consistency with the NEAFC Convention, UNFSA and other relevant international agreements and instruments.

The Working Group on the Future of NEAFC shall develop assessment criteria and procedures for the performance review, including terms of reference for the review, in consultation if appropriate with FAO and other RFMOs. The procedures and terms of reference, together with administrative details, should be submitted to the Contracting Parties for decision by postal vote.

The performance review should aim to be presented to the Annual Meeting in 2006’.

The Working Group of the Future of NEAFC met on 7-9 February 2006 and developed proposals for assessment criteria and for the composition of a review Panel.

The NEAFC Commission adopted the proposal on 18 March 2006 (see below for the terms of reference of the review Panel).

This decision established that the review should be carried out by a performance review Panel consisting of the following members:

- The Chairman of the Working Group on the Future of NEAFC: **Mr. Kolbeinn Árnason, Iceland**
- A fisheries management expert nominated by the Fisheries Department of the Food and Agriculture Organisation of the United Nations (FAO)
- The Chairman of NEAFC’s Permanent Committee of Control and Enforcement, PECCOE: **Mr. Martin Newman, the EU**
- An international law of the sea expert nominated by United Nations Division for Oceans Affairs and the Law of the Sea, Office of Legal Affairs (UNDOALOS)
- A marine scientist nominated by a scientific institution based outside the North East Atlantic Area
- The Secretary of NEAFC: **Mr. Kjartan Hoydal**

The member nominated by FAO was requested to act as the moderator of the Panel.

The Secretariat approached FAO and DOALOS in February to enquire about their availability to participate in the review and nominate an expert. The response of both FAO and DOALOS was positive. With respect to the marine scientist, the Secretariat contacted a number of RFMOs. Although these organizations expressed their willingness to assist NEAFC, they informed NEAFC that it would take them some time to decide on their nomination. Having foreseen this scenario, the meeting of the Future Working Group suggested that the Secretariat should contact a fisheries administration outside the North East Atlantic. As a result the Secretariat contacted the Department of Fisheries and Oceans, Canada, who agreed to submit a nomination.

As a result, the following nominations were put forward:

- An international law of the sea expert nominated by DOALOS: **Ms. Valentina Germani**, Law of the Sea/Ocean Affairs Officer, Deputy Secretary to the Review Conference on the UNFA
- A marine scientist nominated by a scientific institution, based outside the North East Atlantic Area: **Mr. Bruce Atkinson**, retired Regional Director, Science, DFO, Newfoundland and Labrador Region
- A fisheries management expert nominated by the Fisheries Department of the FAO: **Mr. Michael Arbuckle**, visiting scientist at FAO, seconded from the Government of New Zealand. Mr Arbuckle acted as the moderator of the Panel

These nominations were accepted by the NEAFC Commission.

1.2 Terms of reference for a NEAFC performance review

As described above, at the 24th Annual Meeting of NEAFC, it was agreed that a performance review should be conducted to assess the performance and consistency of the organization with the NEAFC Convention, the UNFA and other relevant international instruments.

The meeting decided that the review should assess the performance of NEAFC from 1982 (the period of the implementation of the NEAFC Convention) against the objectives set out in that Convention.¹

Consideration should be given to the developments in fisheries and ocean management that have taken place since the implementation of the NEAFC Convention.

The review should give special emphasis to the objectives reflected in the amendments to the Convention adopted by NEAFC in 2006; that is to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area, to provide sustainable economic, environmental and social benefits.²

¹ Article 4 of the 1982 Convention

² At the 2005 Annual Meeting NEAFC agreed in substance to the 'London Declaration on the Interpretation and Implementation of the Convention on the Future Multilateral Co-operation in North-East Atlantic Fisheries'.

It was further decided that the review had to be performed on the basis of the criteria specified below, and should point to achievements as well as areas which could be improved.

1	Conservation and management of fisheries resources	Knowledge about the status of marine living resources	Status of major fish stocks in relation to maximum sustainable yield and other relevant biological standards Trends in status of stocks. Status of species belonging to the same ecosystems as, or associated with, or dependent upon, the major target stocks
		Quality and provision of scientific advice	Extent to which NEAFC receives advice in accordance with Article 14 of the NEAFC Convention and the Memorandum of Understanding between ICES and NEAFC
		Data collection and sharing	Extent to which Contracting Parties, individually or through NEAFC, collect and share, in a timely manner, complete and accurate data concerning fishing activities
		Adoption of conservation and management measures, including measures adopted at Coastal State level	Extent to which NEAFC has adopted measures based on the best scientific evidence available and used strategies designed to ensure the promotion of the long-term conservation and optimum utilization of fishery resources Extent to which NEAFC provides sustainable economic, environmental and social benefits Extent to which NEAFC has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems
		Compatibility of management measures	Extent to which measures have been adopted as set out in Article 7 of UNFA
		Fishing allocations	Extent to which NEAFC successfully allocates fishing opportunities
2	Monitoring, control and enforcement	Flag States duties	Extent to which Contracting Parties are fulfilling the duties as Flag States under the NEAFC Scheme (UNFA Article 18 and the 1993 FAO Compliance Agreement)
		Monitoring, surveillance and control activities	Extent to which Contracting Parties implement the relevant parts of the NEAFC Scheme of Control and Enforcement and the non-Contracting Party Scheme
		Port State measures	Extent to which Contracting Parties implement port State obligations under the non-Contracting Parties Scheme and UNFA Article 23
		Other enforcement-related issues, including follow up on infringements	Extent to which Contracting Parties are following up infringements to both Schemes. Management measures by which they are bound
3	Decision making and		Extent to which NEAFC has established adequate decision making procedures and mechanisms for

	dispute settlement procedures		solving possible disputes
4	Co-operation	Transparency	Extent to which NEAFC is operating in accordance with the transparency provisions of Article 12 of UNFA
		Participatory rights of newcomers	Extent to which NEAFC is determining participatory rights of new members in accordance with Article 11 of UNFA
		Relationship to cooperating non-Contracting Parties	Extent to which NEAFC grants cooperative non-Contracting Party status in accordance with the non-Contracting Party Scheme
		Relationship to other non-Contracting Parties	Extent of fishing activity by vessels of non-Contracting Parties, that are not cooperating with NEAFC and measures to deter such activity
5	NEAFC in a regional and international context	Co-operation with other RFMO/As	Including co-operation in the network of Regional Fishery Body Secretariats
		Co-operation with other regional organizations	Including the OSPAR Commission for the Protection of the Marine Environment in the North East Atlantic

1.3 Approach and structure of the report

A wide range of instruments, guidelines and theories on what constitutes effective fisheries management have assisted the Panel's review. In particular, global instruments that have guided the work of the Panel include the UNFA, the FAO Compliance Agreement and the Code of Conduct for Responsible Fishing, including the International Plans of Action and technical guidelines developed by FAO to support its implementation (see Section 2.2. below for further information on these instruments).

Determining what constitutes best practice within any particular fisheries management arrangement, whether at the national level or within a multilateral mechanism is however, in practice a complex exercise. The effective conservation and management of fisheries resources will always depend on a range of political, socio-economic, biological and geographic factors specific to the fisheries in question.

Bearing this in mind, while not seeking to be prescriptive in their application, the NEAFC review Panel based its work on generally agreed approaches for effective fisheries management. The Panel began its review with the expectation that the fisheries processes and management systems operated by NEAFC would collectively demonstrate the application of the key features of 'fisheries management' as documented in international guidelines and technical reports³ and that the Governance framework in effect would support the effective implementation of such processes and systems.

³ The FAO Technical Guidelines for Responsible Fisheries No. 4 propose a working definition for 'fisheries management' as 'The integrated process of information gathering, analysis and planning, consultation, decision making, allocation of resources and formulation and implementation, with enforcement as necessary, of regulations or rules which govern fisheries activities in order to ensure the continued productivity of the resource and accomplishment of other fisheries objectives'. This working definition is further developed in the FAO Technical Guidelines for Responsible Fisheries No. 4, Supplement 2 for application under an ecosystem approach to fisheries (see Chapter 4 on management processes and, in particular, Figure 1 on Developing EAF).

This approach required the Panel to look for evidence of effective governance and robust processes and systems while considering each of the review criteria. To support this approach, the Panel conducted some early analysis of the processes and systems currently in operation which are detailed in the Context section of the report.

The Panel agreed to follow a fairly strict process; reviewing the information available on each criteria before reaching an agreement (or at least an understanding) of facts before finally moving on to making statements about performance. To assist in this process, the NEAFC Secretariat provided relevant background material relating to each criterion in order to stimulate discussions during meetings.

As regards stakeholders' engagement, the Panel noted that given more time stakeholder input would have been welcomed and that this approach should be considered in the future.

The NEAFC Review Panel held three meetings as set out in the terms of reference agreed upon by the NEAFC Commission (see section above). The meetings were held at the NEAFC Office in London according to the following schedule: the first meeting was held from 26 to 28 April 2006; the second meeting from 17 to 19 July 2006; the third and last meeting was held from 10 to 11 October 2006. The Panel also worked extensively via electronic correspondence.

The report is structured into two documents. The present document, which constitutes the main part of the report, includes three chapters: Chapter 1 presents the Panel, its Terms of Reference and the approach and structure of the report; Chapter 2 provides the context for this review and, in particular, gives details of key international developments, a brief background to key fisheries managed by NEAFC, and an outline of organisational and wider institutional arrangements underpinning NEAFC and its operations. A second document, which was prepared in the form of a table, provides a detailed comparison of the Convention provisions set against the relevant international instruments, in particular the UNFA and the FAO Code of Conduct.

For ease of interpretation, the reader should note that the Panel has adopted these principals in writing this report:

- The criteria being addressed, as required in the Terms of Reference, are highlighted *in italics* and underlined at the beginning of the relevant sections of the report
- Background information relating to particular criteria is written in normal type in a concise summary which precedes the Panel's comments (where needed). Where more detail is deemed necessary, further information is included in Appendices
- The Panel's comments and views are recorded in ***bold italics***

2 Context

2.1 Introduction

International attention is increasingly focusing on the performance of RFMOs in light of their central role in fisheries management and in the implementation of relevant global instruments. For some time the role and performance of regional fisheries management organisations has been extensively discussed at international level.

At the Twenty-sixth Session of the **UNFAO** Committee on Fisheries (COFI) in March 2005:

‘Many Members agreed the importance of establishing principles to review the obligations and principles set forth in relevant international instruments and the performance of RFMOs in meeting their objectives. However, many Members expressed words of caution and suggested that the question of how to undertake such a review, and the concept of independence, required further discussion, noting RFMOs’ current assessment activities. Many Members agreed that the process could be shaped by consultations among RFMOs, the result of which could then be fed back to COFI for further actions.

Many Members welcomed the proposal extended by the Chairperson of the Fourth Meeting of Regional Fishery Bodies (Rome, 7 - 11 March 2005) that the meeting be given the opportunity to reflect on the matter of assessing the performance of these bodies. The Committee agreed that it could extend an invitation to RFMO members, and to other interested parties, encouraging them to participate in the development of parameters for any such review process, possibly through an urgent expert consultation followed by a technical consultation. Some Members stated that any review of RFMO performance should be in the form of an independent review, even in cases where RFMOs were considering internal assessments.’⁴

The issue of RFMO performance was also extensively discussed at the Review Conference on the United Nations Fish Stocks Agreement (New York, 22-26 May 2006).

Delegations meeting at the Review Conference highlighted that RFMOs were at the centre of the implementation of the conservation and sustainable management measures contained in the Agreement. They were also aware of the need to improve their functions by updating and aligning their Conventions and measures with modern global fisheries instruments, in particular the UNFSA. This was identified as a priority.⁵

The Review Conference agreed that States individually, and collectively through RFMOs, should urgently continue to strengthen the mandates of, and measures adopted by, RFMOs to implement modern approaches to fisheries management as reflected in the UN Fish Stocks Agreement and other relevant international instruments, including relying on the best scientific information available, applying the precautionary approach, and incorporating an ecosystem response to fisheries management. In this context, the Review Conference urged the adoption of performance reviews of RFMOs, whether initiated by RFMOs themselves or with external partners, and called upon States

⁴ FAO Fisheries Report No. 780, Report of the twenty-sixth session of the Committee on Fisheries, Rome, 7–11 March 2005, paragraphs 111-112.

⁵ The report of the Review Conference is contained in United Nations document A/CONF.210/2006/15, available at www.un.org/depts/los. See, in particular, paragraphs 60 and 85 of the report.

and RFMOs to encourage that such reviews include some element of independent evaluation and ensure that the results of any such reviews are made publicly available. The reviews should use transparent criteria based on the Agreement and other relevant instruments, including best practices of RFMOs.⁶

Decisions by international bodies have been prompted by a number of actors. Amongst the critics of RFMOs performance, and therefore a supporter of their review and improvement, the World Wildlife Fund in its evaluation of RFMOs concluded that RFMOs have ‘largely failed to meet the objectives of their own governing Conventions’ and it is difficult to ‘identify examples of sustainable management of target stocks by RFMOs’.⁷ The High Seas Task Force (HSTF), a minister led task force on illegal, unreported and unregulated (IUU) fishing on the high seas, concluded that ‘[T]here has been growing recognition of the need for RFMOs to perform better both individually and collectively, as well as the need for increased co-operation between them on issues of common concern. International consensus is already forming around the need to reform RFMOs and to initiate processes for improving their performance. This consensus recognizes the crucial role played by RFMOs in the effective governance of high seas fishing in a world where fisheries are rapidly and often uncontrollably expanding into these regions.’⁸

Some critics suggest that management problems in high seas fishing stem from fundamental flaws in the governance framework. Underpinning and exacerbating this situation is the lack of any specific allocation framework. The consequence is unmanaged fishing, as Flag States and their fishers race for a share of this ever shrinking resource⁹.

Given this background, the Panel has sought to ensure that its review, while delving into the details of how NEAFC has performed in the light of various international agreements and the NEAFC Convention itself, did not lose sight of the fact that NEAFC’s performance reflects, and is based upon, the will of its Member States. NEAFC does not exist in a vacuum, it is only as effective as its Members allow it to be, both in terms of enabling and empowering it to conduct its management functions, and in terms of how its Members implement its decisions.

The role of the NEAFC Review Panel was not to review and seek reform of the RFMO framework itself, but to discharge its mandate under the terms of reference provided to it by the NEAFC Commission. This entailed reviewing NEAFC’s performance and providing constructive advice on how it could improve.

2.2 International instruments

Over the years a number of international instruments have been adopted to ensure the sustainability of the world’s fisheries. Some of these instruments establish rights and obligations generally applicable in respect of fishery resources in marine areas within national jurisdiction and on the high seas, while others establish regimes for the conservation and management of specific fisheries. Whether legally binding or not, these instruments are aimed at ensuring the conservation and long

⁶ See paragraphs 36 and 45 of the Outcome of the Review Conference, see footnote 5.

⁷ Willock, A. and Lack, M. (2006). Follow the leader: Learning from experience and best practice in regional fisheries management organizations. WWF International and TRAFFIC International.

⁸ High Seas Task Force (2006). Closing the net: Stopping illegal fishing on the high seas. Governments of Australia, Canada, Chile, Namibia, New Zealand, and the United Kingdom, WWF, IUCN and the Earth Institute at Columbia University.

⁹ See for example the background paper on High Seas Governance prepared for the 9 March meeting of the High Seas Task Force.

term sustainability of marine living resources, including fishery resources. The text of these instruments can be found at <http://www.un.org/>.

The 1982 UNCLOS provides the legal framework within which all activities in the oceans and seas must be carried out. Part V and Part VII, section 2, of UNCLOS provide the framework for the conservation, management and sustainable utilization of marine fishery resources in the exclusive economic zone (EEZ) as well as on the high seas. In the EEZ, the Coastal State has sovereign rights to promote the optimum utilization of its living resources. It also has the obligation to ensure that these resources, including fishery resources, are not overexploited, taking into account the best scientific evidence available to it. Article 63 and 64 of UNCLOS, which apply to straddling and highly migratory fish stocks, provide for co-operation between Coastal States and States fishing on the high seas in order to achieve the conservation and development of those stocks.

In both cases co-operation should be direct, or through sub regional or regional organizations. As regards the marine environment, Article 192 of UNCLOS establishes the general duty of all States to adopt measures to protect and preserve the marine environment. Such measures must include whatever is seen as necessary to protect and preserve rare or fragile ecosystems, as well as the habitat of depleted, threatened or endangered species and other forms of marine life (Article 194 (5)).

On the high seas, fishing States are required to adopt conservation measures for fishery resources in respect of vessels flying their flag on the basis of the best scientific evidence available to them and to co-operate with each other in the conservation and management of such resources (Article 117). In particular, States whose nationals exploit identical living resources, or different living resources in the same area, are required to enter into negotiations with a view to taking the measures which are necessary for the conservation of the living resources concerned. To this end they are required to co-operate, as appropriate and to establish sub-regional or regional fisheries organizations (Article 118). In areas within and beyond national jurisdiction, UNCLOS provides that conservation measures are aimed at maintaining or restoring populations of harvested species at levels which can produce the maximum sustainable yield, while taking into consideration the relevant environmental and economic factors.

The 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement) is considered to be the most important legally binding global instrument for the conservation and management of fishery resources since the adoption of UNCLOS in 1982. The Agreement establishes a comprehensive legal regime for the conservation and sustainable use of straddling fish stocks and highly migratory fish stocks. In incorporating the general principles for the conservation and management of living marine resources found in UNCLOS, the Agreement elaborates and develops specific rules set out in UNCLOS, including provisions related to the strengthening of Flag States duties over their vessels fishing on the high seas, as well as of the role of RFMOs in the conservation and management of fishery resources in areas under their competence. It further introduces port controls to promote compliance with high seas fisheries conservation and management measures. The Agreement also contains new approaches to fisheries management resulting from developments in international fisheries law, such as the application of precautionary and ecosystem approaches. Another important aspect of the Agreement is its dispute settlement mechanism. Last but not least, the Agreement takes fully into account the requirements of developing countries in the conservation and management of straddling fish stocks and highly migratory fish stocks.

The 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement) sets out the responsibilities of the Flag States to ensure compliance with international conservation and management measures by fishing vessels flying its flag. Under the Agreement a vessel requires an authorization from the Flag State in order to conduct fishing activities on the high seas. The Flag State must grant such authorization only if it can effectively exercise its responsibilities vis-à-vis such a vessel. Restrictions are also put on the re-flagging of fishing vessels in so far as this would undermine international conservation and management measures. The Agreement requires Flag States to maintain a record of fishing vessels authorized by them to fish on the high seas and entitled to fly their flag. All States' parties are required to co-operate in the exchange of information on activities of fishing vessels reported to have engaged in activities undermining international conservation and management measures in order to assist the Flag States in fulfilling its responsibilities.

The 1992 Convention on Biological Diversity (CBD)'s three objectives are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. While in areas within national jurisdiction the CBD applies to components of biological diversity and to processes and activities carried out under the jurisdiction or control of States, this Convention only applies to processes and activities carried out under the jurisdiction or control of States (Article 4). Article 5 establishes a general obligation for States to co-operate for the conservation and sustainable use of biodiversity in areas beyond national jurisdiction. Article 8 sets out a number of measures for *in situ* conservation, including the establishment of protected areas where necessary. The 1995 Jakarta Mandate on Marine and Coastal Biodiversity advanced the implementation of the provisions of the CBD as they relate to the marine environment, for example, by elaborating an ecosystem approach and focusing on the establishment and strengthening of national and regional systems of marine and coastal protected areas.

The 1995 FAO Code of Conduct for Responsible Fisheries (FAO Code of Conduct) is a voluntary instrument that, *inter alia*, establishes principles for responsible fishing and fisheries activities, taking into account all their relevant biological, technological, economic, social, environmental and commercial aspects. The Code also seeks to promote and facilitate structural adjustments in the fisheries sector so that fisheries are utilized in a long-term sustainable and responsible manner for the benefit of present and future generations. The Code is complemented by four international plans of action: the plan to prevent, deter and eliminate IUU fishing; the plan for reducing incidental catch of seabirds in longline fisheries; the plan for the conservation and management of sharks; and the plan for the management of fishing capacity.

The International Plan of Action adopted by the World Summit on Sustainable Development (JPOI) adopted a number of recommendations to achieve sustainable fisheries (paragraph 31). In particular, the JPOI required action at all levels in order to:

- maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis, where possible not later than 2015
- ratify, or accede to and effectively implement relevant global and regional instruments; to encourage relevant RFMOs to give due consideration to the rights, duties and interests of Coastal States and to give particular consideration to the special requirements of developing

States when addressing the issue of the allocation of share of fishery resources for straddling stocks and highly migratory fish stocks on the high seas within EEZs

- eliminate subsidies that contribute to IUU fishing and to over-capacity while completing the efforts initiated at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries
- strengthen donor co-ordination and partnerships between international financial institutions, bilateral agencies and other relevant stakeholders in order to enable developing countries, in particular the least developed countries and small island developing States and countries with economies in transition, in order to develop their national, regional and sub regional capacities for infrastructure and integrated management and the sustainable use of fisheries
- support the sustainable development of aquaculture, including small-scale aquaculture, given its growing importance for food security and economic development

The JPOI encouraged the application by 2010 of the ecosystem approach, noting the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem, and decision V/6 of the Conference of Parties to the Convention on Biological Diversity (paragraph 30(e)).

It also recommended:

- the development and use of diverse approaches and tools, including the ecosystem approach
- the elimination of destructive fishing practices
- the establishment of marine protected areas consistent with international law and based on scientific information (including representative networks by 2012), with time/area closures for the protection of nursery grounds
- proper coastal land use and watershed planning with the integration of marine and coastal areas of management into key sectors (paragraph 32(c)).

2.3 The Convention

2.3.1 Its origins

The origins of the Convention on Future Multilateral Co-operation in the North-East Atlantic Fisheries lie in an organisation known as the Permanent Commission, which was founded in 1953. The Permanent Commission was formed under the 1946 Convention for the Regulation of Meshes of Fishing Nets and the Size Limits of Fish. By the early 1960s it was considered that the Commission needed a wider range of powers to regulate the effects of technological advances in fishing methods. In 1963 NEAFC was formed to succeed the Permanent Commission. In addition to the powers of the Permanent Commission, NEAFC was empowered to establish closed fishing areas and seasons, and regulate catch and fishing effort.

Following the withdrawal from NEAFC of the individual Member States of the European Economic Community (EEC) and the general extension of fisheries limits to 200 nautical miles, negotiations between present and former members of NEAFC resulted in the 1980 Agreement on the Convention

on Future Multilateral Co-operation in the North-East Atlantic Fisheries (the Convention). This new Convention, which entered into force in 1982, differed from the previous Convention in that it provided, *inter alia*, for the EEC to be a signatory as one entity and to become a Contracting Party.

A new Commission, known as NEAFC, was established in November 1982. Its duties, obligations and functions are set out in Articles 4, 5 and 6 of the Convention (for the full texts see footnote ¹⁰ or <http://www.neafc.org/about/docs/Convention.pdf>).

2.3.2 Its boundaries

The Convention Area covers the Atlantic and Arctic Oceans east of a line south of Cape Farewell - the southern tip of Greenland, (42° W), north of a line to the west of Cape Hatteras - the southern tip of Spain (36° N), and west of a line touching the western tip of Novya Semlya (51°E). The Baltic and Mediterranean Seas are excluded.

Most of this area is under the fisheries jurisdiction of NEAFC's Contracting Parties, but three large areas within this area are international waters and constitute the NEAFC Regulatory Area.

The Convention Area and Regulatory Area (shaded) are marked on the map on the front page of this report. The shaded area to the north east of northern Norway and the Russian Federation is in the Barents Sea, the central area north of the Faroe Islands is the Norwegian Sea, and the third area to the south west of Greenland and Iceland, and west of Faroese and European Union waters comprises the Irminger Sea, Hatton Bank Ridge, Rockall Ridge, the Mid Atlantic Ridge, and the waters north of the Azores.

2.3.3 Its fisheries

The main fisheries in the Convention Area are for Norwegian Spring Spawning (Atlanto-Scandian) herring, mackerel, blue whiting and oceanic pelagic redfish. These fisheries are all regulated, at least in part, by NEAFC.

Demersal fisheries in the Barents Sea area of the Regulatory Area are, however, not regulated by NEAFC but by a fisheries arrangement between the two Coastal States, Norway and the Russian Federation; the Joint Norwegian-Russian Fisheries Commission.

¹⁰ ARTICLE 4

1. The Commission shall perform its functions in the interests of the conservation and optimum utilisation of the fishery resources of the Convention Area and shall take into account the best scientific evidence available to it.
2. The Commission shall provide a forum for consultation and exchange of information on the state of the fishery resources in the Convention Area and on management policies, including examination of the overall effect of such policies on the fishery resources.

ARTICLE 5

1. The Commission shall, as appropriate, make recommendations concerning fisheries conducted beyond the areas under fisheries jurisdiction of Contracting Parties. Such recommendations shall be adopted by a qualified majority.
2. The Commission in the exercise of its functions under paragraph 1 shall seek to ensure consistency between:
(a) any recommendation that applies to a stock or group of stocks occurring both within an area under the fisheries jurisdiction of a Contracting Party and beyond, or any recommendation that would have an effect through species inter-relationships on a stock or group of stocks occurring in whole or in part within an area under the fisheries jurisdiction of a Contracting Party, and
(b) any measures and decisions taken by such Contracting Party for the management and conservation of that stock or group of stocks with respect to fisheries within the area under its fisheries jurisdiction. The appropriate Contracting Party and the Commission shall accordingly promote the co-ordination of such recommendations, measures and decisions.
3. For the purpose of paragraph 2 each Contracting Party shall keep the Commission informed of its measures and decisions.

ARTICLE 6

1. The Commission may make recommendations concerning fisheries conducted within an area under fisheries jurisdiction of a Contracting Party, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.
2. The Commission may give advice concerning fisheries referred to in paragraph 1 if the Contracting Party in question so requests.

A more detailed description of key fisheries in the Convention Area is provided in Section 2.4.

2.3.4 Its purpose

The purpose of the Convention is described in Article 4 which provides for the following:

1. The Commission shall perform its functions in the interests of the conservation and optimum utilisation of the fishery resources of the Convention Area and shall take into account the best scientific evidence available to it.

2. The Commission shall provide a forum for consultation and exchange of information on the state of fishery resources in the Convention Area and on management policies, including the examination of the overall effect of such policies on fishery resources.

2.3.5 Its membership

The number of Contracting Parties who have ratified the Convention and who make up its membership has changed since 1982, as follows:

- The 1982 Convention was signed by thirteen members; Bulgaria, Denmark (in respect of the Faroe Islands), EEC (now EU), Finland, the German Democratic Republic, Iceland, Norway, Portugal, Spain, Sweden and the Soviet Union (now the Russian Federation), and a new Commission was established in 1982
- Greenland withdrew from the EEC in February 1985 and has since been represented by Denmark
- From 1990 the interests of the former German Democratic Republic are covered by the EU
- Bulgaria formally discontinued its membership of the Commission in January 1995
- Sweden and Finland acceded to the European Union in January 1995 and at the same time discontinued their membership of the Commission
- Estonia became a member of the Commission in July 2003
- Poland and Estonia acceded to the European Union in 2005 and discontinued their membership of the Commission in 2006

The present membership is therefore made up as follows:

- The European Union
- Denmark (in respect of the Faroe Islands and Greenland)

- Iceland
- Norway
- The Russian Federation

2.4 The Fisheries

The five main fisheries in the Convention Area are Norwegian spring spawning (Atlanto–Scandian) herring, mackerel, blue whiting and pelagic redfish. Slightly less than 4 million tonnes, or 31 %, of the total North East Atlantic catch, is taken in these fisheries. About 1 million tonnes of this catch is taken in the Regulatory Area.¹¹

The catches of the three pelagic species in 2005 had a landed value¹² of approximately 9,117 million Norwegian kroner (or 681 million US\$) from the Convention Area and 1,566 million Norwegian kroner (or 236 million US\$) from the Regulatory Area.

These fisheries are industrial in nature and are mostly fished by large mid water trawl and purse seine vessels. Landings from these vessels form the basis of large operations processing for human consumption, fish feed for the aquaculture sector, and fish oil and meal in general. NEAFC fisheries have significant economic and social importance to Coastal States and fishing communities.

In the time available the Panel was not able to carry out any extensive research or analysis on the economic performance of the key NEAFC fisheries. Some information was however obtained from recent studies of the the economy of Nordic fisheries.¹³ This information indicates that well-regulated fisheries in the North Atlantic running under market conditions have a resource rent (the return which is left to the remuneration of capital and labour above the level in other businesses) of over 30 % of the landed value. Although focussed on demersal fisheries, this study provides some evidence that, under favourable management conditions, significant rents are realisable in fisheries within the Convention Area.

The following sections provide a brief overview of the key fisheries in the Convention Area describing the main catching methods used, historical catches relative to catch limits (where set) and the current state of the management. A summary of stock status in the Convention Area is provided in Section 3.3.1 below.

2.4.1 Pelagic redfish (*Sebastes mentella*)

The pelagic redfish fishery takes place in the Irminger Sea between East Greenland and Iceland, both in the NEAFC and NAFO Regulatory Areas. The two regional organisations have agreed that NEAFC should adopt overall total allowable catches (TACs) for redfish, setting aside a part of them to be taken in the NAFO Regulatory Area.

¹¹ www.neafc.com based on landings reported to NEAFC.

¹² Based on are Norwegian annual average prices for 2005.

¹³ Økonomien i de nordiske fiskerier Fokus på resourcerenten (The economy of Nordic Fisheries - Focus on the resource rent) (English summary). Available at <http://www.norden.org/pub/miljo/fiskeri/sk/TN2006540.pdf> > TemaNord 2006:540 © Nordisk Ministerråd, København 2006 ISBN 92-893-1347-1

The fishery is a pelagic trawl fishery over deep-sea starting in April and continuing until late autumn. Fleets from all the contracting Parties participate with large factory vessels. For most of them it is a supplement to fisheries for demersal species in waters under national jurisdiction. Because scientific views about stock boundaries have changed recently, and disagreements over the different components of the stock and their exploitation have hampered agreement on management, no management objective has been agreed upon and no harvest control rules are in effect. A detailed history of management is found in Appendix II.

Pelagic redfish (*Sebastes mentella*)

Year	TAC ^(a)	Landings ^(b)		% over (under) caught
	Convention Area	Convention Area	Regulatory Area	Convention Area
1999	153	110	-	(39)
2000	120	98	45	(22)
2001	95	112	49	15
2002	95	117	54	19
2003	119	145	2	18
2004	120	113	73	(6)
2005 ^(c)	75	69	32	(9)
2006	62			

(a) Total Allowable Catch limits (TAC) adopted by NEAFC for the Convention Area

(b) Landings (Unit: 1000 tonnes) Source 1999/2003: ICES ACFM Reports. 2004-2005 NEAFC provisional monthly reporting. Convention Area includes Regulatory Area

(c) Up to and including October only

2.4.2 The pelagic fisheries for herring, blue whiting and mackerel

The main pelagic stocks in the NEAFC Regulatory Area are exploited by large trawlers-purse seiners from all the Contracting Parties of NEAFC. The fleets move with the season between the three main stocks and the waters under national jurisdiction and the Regulatory Area.

The Coastal States ¹⁴ have agreed management plans and harvest control rules for the three stocks. There have been problems in assessing two of the stocks. In blue whiting there seems to be a regime change with recruitment at a much higher level in recent years. Scientific views on data and stock separation have also changed in recently.

Allocations for the NEAFC Regulatory Area are adopted by NEAFC only after (and if) there is Coastal State agreement regarding allocation amongst the Coastal States.

A detailed history of management is found in Appendices III to V.

¹⁴ Coastal States for mackerel: EU, Faroe Islands and Norway

Coastal States for herring: EU, Faroe Islands, Iceland, Norway and the Russian Federation

Coastal States for blue whiting: Faroe Islands, Iceland and Norway

Norwegian spring spawning (Atlanto-Scandian) herring (*Clupea harengus harengus*)

Year	Allocations ^(a)	Landings ^(b)		% over (under) caught ^(c)
	Regulatory Area	Convention Area	Regulatory Area	Regulatory Area
2000	102	1189	168	65
2001	77	716	142	84
2002	77	824	99	29
2003	<i>n.a.</i>	714	110	<i>n.a.</i>
2004	<i>n.a.</i>	809	148	<i>n.a.</i>
2005	<i>n.a.</i>	1254	195	<i>n.a.</i>
2006				

n.a. Allocations not agreed in NEAFC. National measures only

(a) Allocations for the NEAFC Regulatory Area only.

(b) Landings (Unit: 1000 tonnes) Source: NEAFC provisional monthly reporting. Convention Area includes Regulatory Area

(c) Up to and including October only

Blue whiting (*Micromesistius poutassou*)

Year	Allocations ^(a)	Landings ^(b)		% over(under)caught	
		Convention Area	Regulatory Area	Convention Area	Regulatory Area
2000	650*	1249	330	92	
2001	650*	1525	259	135	
2002	650*	1528	389	135	
2003	<i>n.a.</i>	2365	883		<i>n.a.</i>
2004	<i>n.a.</i>	2407	721		<i>n.a.</i>
2005 ^(c)	<i>n.a.</i>	1973	695		<i>n.a.</i>
2006	253				

n.a. Allocations not agreed in NEAFC. National measures only for the *Convention Area

(a) Allocations for the NEAFC Regulatory Area only

(b) Landings (Unit: 1000 tonnes) Source: NEAFC provisional monthly reporting. Convention Area includes Regulatory Area

(c) Up to and including October only

Mackerel (*Scomber scombrus*)

Year	Allocations (a)	Landings ^(b)		% over(under)caught	
		Convention Area	Regulatory Area	Convention Area	Regulatory Area
2000	50	275	43		(14)
2001	65	530	41		(37)
2002	66	609	38		(37)
2003	57	535	30		(37)
2004	52	527	41		(37)
2005 ^(c)	40	356	35		(37)
2006	43				

n.a. Allocations not agreed in NEAFC. National measures only for the *Convention Area

(a) Allocations for the NEAFC Regulatory Area only

(b) Landings (Unit: 1000 tonnes) Source: NEAFC provisional monthly reporting. Convention Area includes Regulatory Area

(c) Up to and including October only

2.4.3 Rockall haddock (*Melanogrammus aeglefinus*)

Rockall haddock is fished by demersal EU trawlers inside and outside EU-waters and by larger Russian trawlers in the Regulatory Area. There is no management plan for the fishery.

A detailed history of management is found in Appendix VI.

2.4.4 Rockall haddock (*Melanogrammus aeglefinus*)

Year	Landings	
	Convention Area (a)	Regulatory Area (b)
2001	1	>1
2002	3	2
2003	6	5
2004	7	7
2005 ³	5	5

(a) Landings (Unit: 1000 tonnes) Source: NEAFC provisional monthly reporting. Convention Area includes Regulatory Area

(b) Up to and including October only.

2.4.5 Deep-sea species

Information on recent deep-sea fishing activity has been made available through ICES. The information is detailed in Appendix I. It should be noted that the term ‘deep-sea fisheries’ covers a heterogeneous group of fishing, fleets, species and areas.

NEAFC has compiled data for deep-sea fisheries in the Regulatory Area for 2004 and up to, and including October 2005. Some 26,000 tonnes of deep-sea fish species were landed in 2004 and 27,000 tonnes in 2005.

Some deep-sea fisheries were regulated by unilateral or internationally agreed TACs in 2003. In 2003 and 2004 Contracting Parties also agreed to freeze effort in the NEAFC Regulatory Area and then reduce it by 30% for 2005 and 2006. There are no long term management objectives, nor are there any long term management plans in place.

A detailed history of management is found in Appendix VII.

2.5 The NEAFC management framework

2.5.1 Management jurisdiction

Article 5 and Article 6 (see footnote 10) of the Convention set up two scenarios for the management of NEAFC fisheries. Article 5 provides for recommendations for straddling stocks in waters beyond the areas under the jurisdiction of Contracting Parties. Article 6 allows for recommendations that apply to waters under the fisheries jurisdiction of Contracting Parties. This is done at the request of the Contracting Party in question and a recommendation must receive its affirmative vote.

The Contracting Parties of NEAFC have utilised both of these scenarios as follows:

1. Coastal State groups adopt management measures and allocations for the whole distribution area of the fish stocks, this includes proposing measures to be adopted by NEAFC for areas beyond the jurisdiction of Contracting Parties (i.e. the Regulatory Area). Examples are the pelagic fisheries for Norwegian spring spawning (Atlanto-Scandian) herring, mackerel and blue whiting and Rockall haddock.
2. NEAFC adopts management measures and allocations for the whole distribution area of the stock for areas inside and beyond the jurisdiction of Contracting Parties. Examples are the fishery for pelagic redfish¹⁵ and deep-sea fisheries.

Some fisheries are regulated fully by arrangements outside the NEAFC context by the Joint Norwegian–Russian Fisheries Commission, for example the demersal fisheries in the Barents Sea.

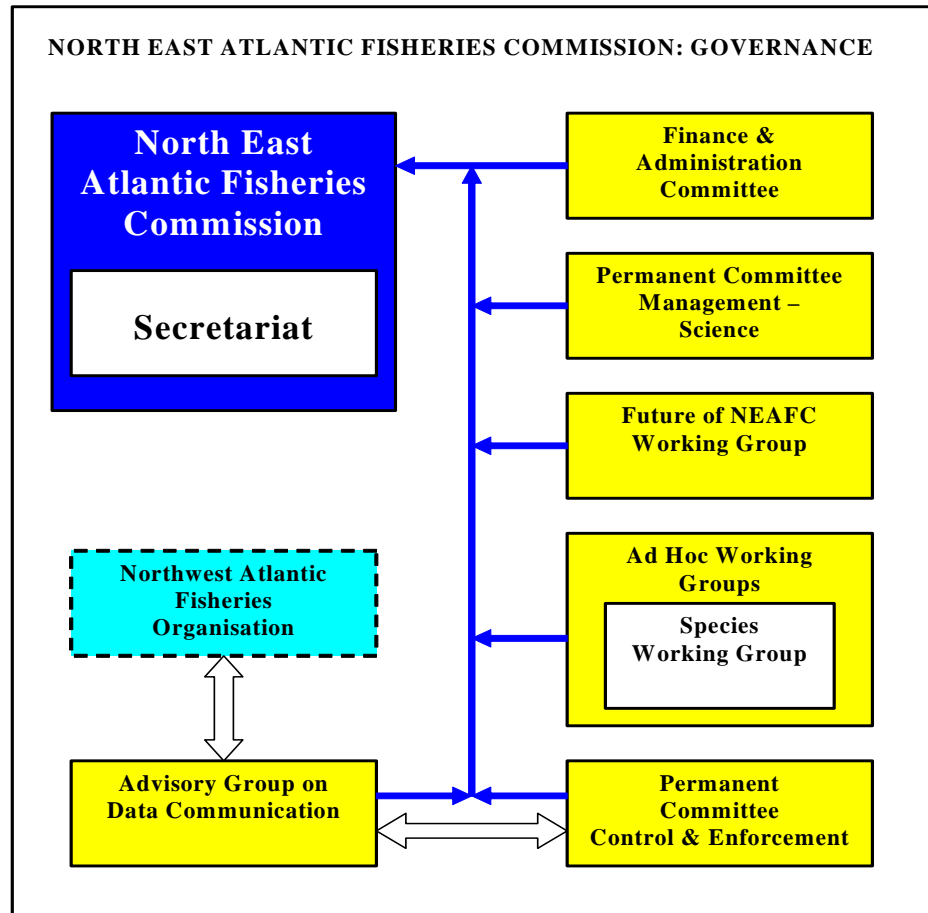
2.5.2 Responsibilities of the Commission

The Convention empowers NEAFC to adopt fisheries management recommendations by qualified majority vote (subject to the objection procedure and dispute resolution procedures). Recommendations become binding on Contracting Parties once objection periods expire. Article 15 of the Convention requires the Parties to effect these recommendations.

¹⁵ Recommendations on pelagic redfish adopted by the Commission refer to both Articles 5 and 6 of the Convention. For the years 1996 – 2004 the recommendations established the overall TAC and allocations to Contracting Parties; for 2005 and 2006 the recommendation establishes the overall TAC.

The Commission has established a number of Committees and Working Groups to assist it in carrying out its responsibilities pursuant to Article 3, paragraph 8 of the Convention. These advisory bodies, including their relationship to the Northwest Atlantic Fisheries Organization (NAFO), are shown in Figure 1 below. The Commission is also supported by a dedicated Secretariat, as described below.

Figure 1: Governance by the Commission



2.5.3 The Secretariat

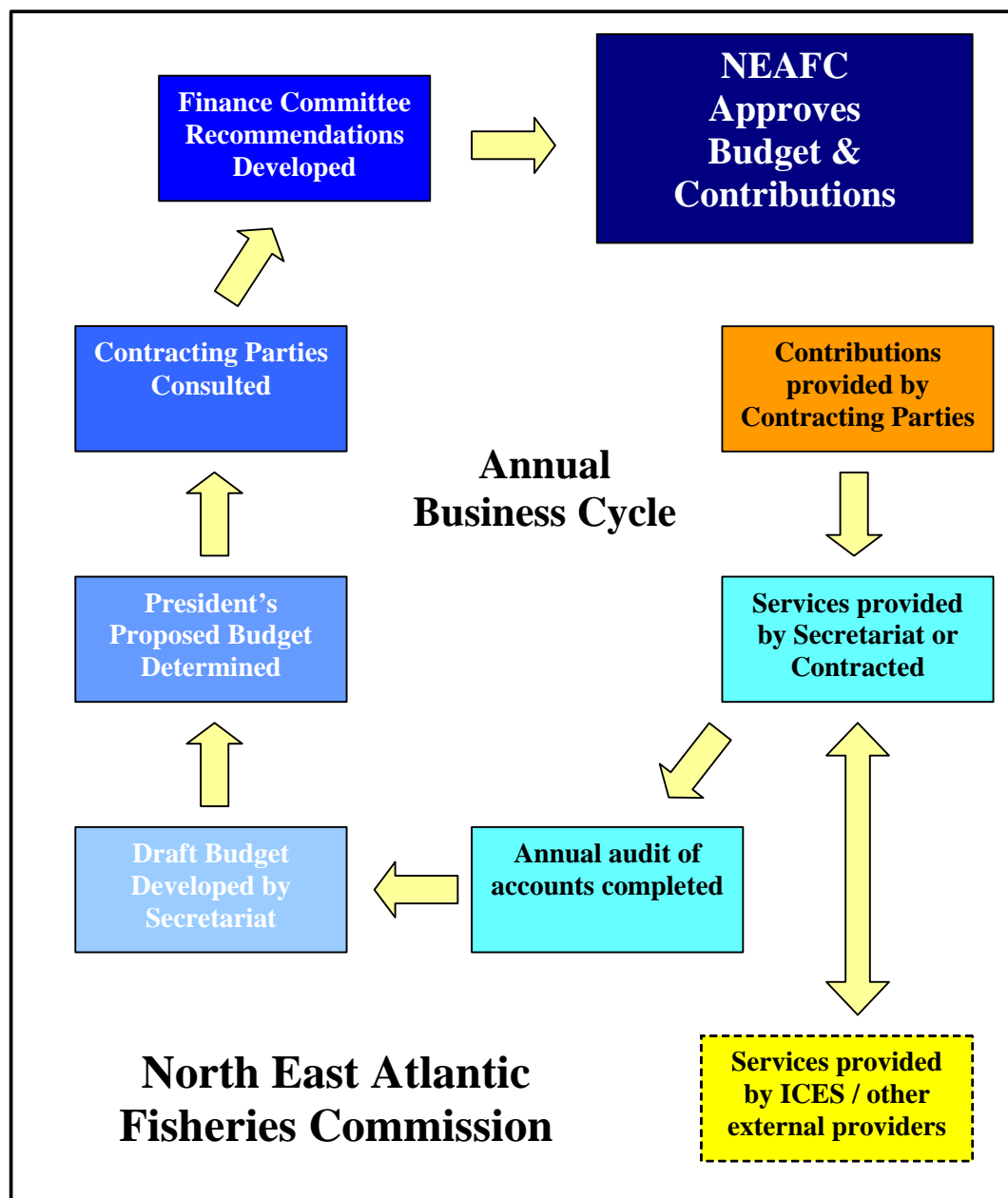
Article 3 paragraphs 5 and 7 of the Convention establish the office of the Commission in London and stipulate that the Commission shall appoint a Secretary and necessary staff. From 1982 to 1999 Secretarial functions were covered by the UK Ministry of Agriculture, Fisheries and Food (MAFF – now the Department of the Environment Fisheries and Rural Affairs) on a temporary basis.

In 1998 NEAFC's Contracting Parties agreed to strengthen the organisation by establishing an independent Secretariat in London. A permanent Secretariat was established in 1999 creating the post of Secretary (3 year terms), and two permanent full-time posts, one as IT Manager and Vessel Monitoring System (VMS) Administrator and one as Office Manager. Due to the increasing demands for web-based solutions in 2004 staffing was increased with the addition of an IT Assistant.

Staff members are international civil servants working according to rules set up by the NEAFC Commission which are based on regulations established between the UN and the International Civil Service Commission.

The budget for running the Secretariat is part of the budget drawn up by the President of NEAFC (see Figure 2) and sent to the Contracting Parties. It is reviewed by the Finance and Administration Committee which drafts final proposals to the NEAFC Commissions for decision at the Annual Meeting. The approved total budget for 2006 is just under £760,000 and has increased from approximately £580,000 in 1999 when the permanent Secretariat was first established. Staff costs and allowances amount to about 30% of the total budget.

Figure 2: NEAFC Annual Business Cycle



2.5.4 Operational systems and processes

Two key macro processes are implemented by NEAFC which encompass the annual business planning cycle and an annual fisheries management planning and implementation cycle. They are characterised by decisions that are taken either at a plenary meeting of NEAFC or, in the case of quota allocation for some fisheries, taken separately amongst Coastal States. These macro processes are described below in further detail.

The Panel has not documented or reviewed financial and administrative processes underpinning the business cycle and general administrative operations of the Secretariat as these were not considered to be central to the objective of this review. Nonetheless, it should be noted that in 2001 the Commission adopted rules allowing NGOs to take part in its meetings in order to improve the transparency of its decision-making. In addition, the NEAFC website was recently developed to bring relevant information, including a number of reports, into the public domain.

2.5.5 The annual business cycle

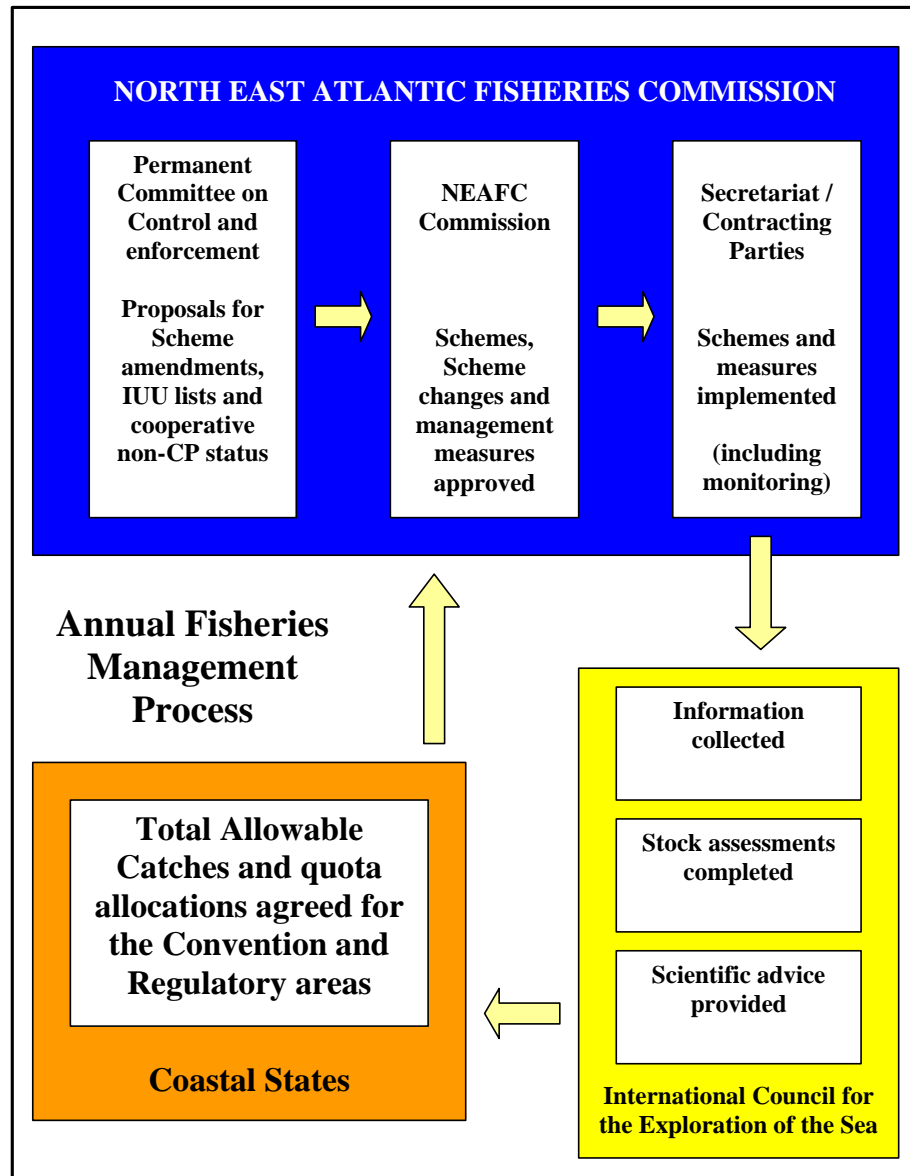
The annual business cycle followed by NEAFC is diagrammatically represented in Figure 2 above. The business cycle encompasses eight key steps beginning with the provision on levy contributions by Contracting Parties. Levy income for a particular financial year (which runs from 1 January to 31 December) is in fact calculated from catches recorded in the previous year according to the rules prescribed in the Convention. About 20% of the annual budget is spent on funding the provision of scientific advice by the International Council for the Exploration of the Sea (ICES).

ICES provides advice to NEAFC as agreed in the Memorandum of Understanding established in 2003 between the two organisations. The provision of advice from ICES is also a requirement of Article 14 of the NEAFC Convention. A new Memorandum of Understanding for 2007 and beyond is under preparation at present. NEAFC is reviewing the form ICES' advice should take and, in particular, with regard to the traditional single stock focus, the need to address environmental and ecosystem issues and quality assurance of the advice. The new Memorandum of Understanding between NEAFC and ICES is expected to be signed in 2007.

2.5.6 The annual fisheries management planning and implementation cycle

Information collected and advice provided by ICES under the agreement discussed in the section above is utilised differently for different fisheries that are regulated under the Convention. In the case of pelagic stocks, the information is utilised in the first instance by Coastal States in order to reach agreements on TACs and allocations within the Convention and Regulatory Areas. While NEAFC is not involved in this initial process, once (and if) allocations are agreed, it will then take steps to develop and implement management measures to support these decisions. The steps taken are detailed below in Figure 3. A different process is followed for pelagic redfish and deep-sea species whereby the TACs and allocations are set directly by NEAFC and may, or may not, be endorsed by Coastal States.

Figure 3: NEAFC Fisheries Management Planning and Implementation Cycle



The operational systems and processes applying to the management of fisheries regulated by NEAFC are documented within two Schemes. In 1999 NEAFC introduced a Control and Enforcement Scheme for Contracting Party fishing vessels operating in the NEAFC Regulatory Area. This included the establishment of a satellite VMS. In the same year a Scheme to promote compliance by NCP vessels was introduced. The latter Scheme was substantially amended in 2003 to address IUU fishing issues, for example by requiring the listing of those vessels that have operated in contravention of Commission regulations and by defining cooperative NCPs.

The full text of these two Schemes can be found on the NEAFC website.¹⁶ A brief summary of these schemes is also provided below in the introduction to the section of this report on Monitoring and Control (see Section 3.3.9).

¹⁶ <http://www.neafc.org/measures/docs/scheme-2006.pdf> and http://www.neafc.org/measures/docs/ncp_sch-may-06.pdf

3 Performance Review (Achievements & Improvements)

3.1 Introduction

This Chapter provides the Panel's detailed comments on the performance criteria with a focus on identifying achievements and areas for improvement. The first section of this chapter contains comments on the Panel's general review of the Convention and its consistency with key international instruments. The Panel considered this a necessary step in order to ensure that the Convention, and by association the operations of NEAFC, is in conformity and implements the applicable provisions of relevant global instruments.

The second section of this chapter focuses on the individual performance criteria and, in the last section, general conclusions are provided.

3.2 Consistency of the Convention with global instruments

Volume 2 of this review provides a comprehensive comparison of the 1982 Convention, the Convention as amended in 2005, the Fish Stocks Agreement and the FAO Code of Conduct.

The 2005 amendments to the Convention and the Schemes (see below) introduced a number of provisions that reflected modern developments in fisheries law as introduced, for example, by the UN Fish Stocks Agreement, the FAO Code of Conduct and the FAO Compliance Agreement.

A new preamble paragraph of the Convention renders explicit its relationship with those global instruments. In line with the objectives of the UNFSA (Article 2), and the Code of Conduct (Articles 2 and 6) to ensure the long-term conservation and sustainable use of fisheries, the new objective of NEAFC is also 'to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits'.

Furthermore, the amendments to the Convention include provisions relating to

- the use of the best scientific evidence available as the basis for its recommendations
- the application of the precautionary approach
- the need to take into account of the impact of fisheries on other species and marine ecosystems, and in doing so to adopt, where necessary, conservation and management measures that address the need to minimise harmful impacts on living marine resources and marine ecosystems
- the need to take due account of the conservation of marine biological diversity (Article 4.2)

These new provisions incorporate into the Convention some of the General Principles of the UNFA and Code of Conduct that were not previously included therein. In terms of its full compatibility with the above mentioned global instruments, it must be noted that the Convention is a regional framework instrument and, as such, its provisions do not fully reflect the details and broad range of issues covered by global regimes. For example, the Convention's provisions relating to the precautionary approach, do not elaborate on its meaning, although it must be assumed that the specific provisions contained in the Fish Stocks Agreement (Article 6) and the Code of Conduct (Article 7.5) relating to the precautionary approach, provide the context within which the Convention

is to be implemented. Furthermore, although the Convention does not specifically refer to the need to minimize pollution and waste discards, its provisions outline the need to take due account of the impact of fisheries on other species and marine ecosystems and, in doing so adopt, where necessary, conservation and management measures that address the need to minimise harmful impacts on living marine resources and marine ecosystems in line with the requirements of global instruments.

The Convention does not address issues relating to post-harvest practices and trade (see article 11 of the Code of Conduct); the specific requirements of developing States which might conduct activities in the Regulatory Area (see Part VII of the Fish Stocks Agreement and article 5 of the Code of Conduct); and issues relating to the interests of artisanal and subsistence fishers (Fish Stocks Agreement, Article 5 (i), and Code of Conduct, Article 6.16).

Additionally, it should be noted that a number of important issues, which are not addressed at all or in detail in the Convention text, are elaborated in the context of other documents adopted by NEAFC. For example, issues relating to non-members and non-participants, including enforcement by port States, which are not included in NEAFC Convention, are addressed in the Non-Contracting Parties Scheme (see also Section 3.3.13); issues relating to control and enforcement are elaborated in detail in the Scheme of Control and Enforcement (see also Section 3.3.12); and issues relating to new members and participants are addressed in the 2003 'Guidelines for the expectation of future new Contracting Parties with regard to fishing opportunities in the NEAFC Regulatory Area'. These documents generally implement the provisions of the Fish Stocks Agreement, the FAO Code of Conduct and the FAO Compliance Agreement in the specific context of the Convention.

The issue of participation of other organizations, including NGOs, in the work of NEAFC (see Article 12(2) of the Fish Stocks Agreement and Code of Conduct Articles 6.13, 7.1.5 and 7.1.6) is addressed in Chapter 8 of the NEAFC Rules of Procedure (see also below section 3.5.1. on 'Observers'). In this regard, the need for consistency in the implementation of the Convention with the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, known as the Aarhus Convention, should be emphasised. The Parties to the Aarhus Convention (which include Norway and the EU) are in the process of developing a set of guidelines on 'Promoting the application of the principles of the Convention in international forums', which will also apply to forums whose decisions or actions relate to the environment or may have a significant effect on the environment. This would include NEAFC.

3.3 Conservation and Management of Fisheries Resources

The primary focus of this section is the conservation and management of the resources. Section 3.3.1 however briefly outlines the status of the resources in the Convention Area as requested by the terms of reference for this review.

3.3.1 Knowledge about the status of marine living resources

Covering the status of major fish stocks in relation to maximum sustainable yield and other relevant biological standards. Trends in the status of stocks. Status of species belonging to the same ecosystems, or associated with, or dependent upon, the major target stocks

Article 14 of the Convention¹⁷ stipulates that the Commission shall seek information and advice from ICES. Since 2000 there has been a Memorandum of Understanding between NEAFC and ICES (Appendix IX). In addition, NEAFC makes specific annual requests to ICES for advice on matters pertaining to its mandate. Up till now annual requests for advice from ICES have been drafted by an *ad hoc* group at the Annual Meeting of the Commission. At the 24th Annual Meeting in November 2005 the Commission adopted a proposal for creating the Permanent Committee on Management and Science. The terms of reference for this Committee have yet to be operational but it is anticipated that this body will assume responsibility for drafting requests for advice.

The Review Panel, while interested in stock status, recognizes that its mandate does not include any review of ICES and its processes, nor could the Panel reasonably have contemplated such a review in the time and with the resources available. As such the information on status represents only a brief summary which relies on advice provided by ICES. Interested readers are directed to the 2005 reports of ICES (ICES 2005) which contains more detail. Any comments on ICES processes provided by the Panel are necessarily limited to the key points of engagement which go on between the two agencies.

3.3.1.1 Pelagic redfish

Survey biomass indices were stable at a high level in the early period (1991-1995) but most recent estimates indicates that the current stock size is low compared to the early 1990s although stock size has not shown any clear trends since 1999. The available information for pelagic redfish (*Sebastes mentella*) is inadequate to evaluate spawning stock biomass or fishing mortality relative to risk, so the status of the stock in relation to relevant biological standards or reference points is not known. There is an ongoing debate, yet to be resolved, as to whether there are one or more stocks involved in this fishery. In 2005 ICES did not report any eco-system issues relating to this fishery.

3.3.1.2 The pelagic fisheries for blue whiting, Norwegian spring spawning (Atlanto-Scandian) herring and mackerel

After being at a relatively low level in the late 1980's, in recent years the stock size of blue whiting (*Micromesistius poutassou*) has increased significantly. The stock is considered to have full reproductive capacity. ICES did not report any ecosystem issues related to this fishery in 2005.

Spawning stock size for Norwegian spring-spawning (Atlanto-Scandian) herring (*Clupea harengus harengus*) increased from very low levels in the 1970s to about 5 million tonnes at the present time. Estimates of spawning stock biomass and fishing mortality are uncertain and sensitive to the choice of assessment model and calibration data. The stock is considered to have full reproductive capacity. In 2005 ICES noted that juveniles and adults of this stock form an important part of the ecosystems in the Barents Sea, the Norwegian Sea and the Norwegian coast. Herring has an important role as transformers of the plankton production to higher trophic levels (cod, seabirds, and marine mammals).

¹⁷ ARTICLE 14

1. In the interest of the optimal performance of the functions set out in Articles 4, 5 and 6, the Commission shall seek information and advice from the International Council for the Exploration of the Sea. Such information and advice shall be sought on matters related to the Commission's activities and falling within the competence of the Council, including information and advice on the biology and population dynamics of the fish species concerned, the state of the fish stocks, the effect of fishing on those stocks, and measures for their conservation and management.

2. In order to facilitate the tasks of the International Council for the Exploration of the Sea in providing information and advice to the Commission, the Commission shall seek to establish in co-operation with the Council, arrangements to ensure that research studies for this purpose, including joint studies, are encouraged and conducted efficiently and without undue delay.

3. The Commission may establish working arrangements with any other international organisation which has related objectives.

ICES advice is that the status of Northeast Atlantic mackerel (*Scomber scombrus*) is uncertain, but monitoring shows that the spawning stock biomass has declined since 1992 and is now around the lowest observed level. The status relative to relevant biological reference points is uncertain at present. In 2005 ICES did not raise any ecological concerns associated with this fishery.

3.3.1.3 Rockall haddock

The status of the Rockall haddock (*Melanogrammus aeglefinus*) stock is uncertain but stock size is considered to be low. The stock declined since 1995 to an historical low in 2002 but may have increased since. Historical perspectives of fishing mortality indicate that it has been high, but the current exploitation rate is unknown. The status in relation to relevant biological indicators is also unknown. There are possible ecological implications which relate to this fishery since it is fished with bottom trawls, possibly in areas of sensitive habitat. ICES did not comment on this in 2005 but did note that this is a mixed fishery and that there are substantial by-catches of blue whiting and non-assessed species such as grey gurnard.

3.3.1.4 Deep-sea species

The status of deep-sea species in the NEAFC Convention Area (see Appendix I) is mostly unknown. ICES has questioned to what extent the deep-sea can be considered as a homogeneous ecosystem. It covers several million square kilometres, spanning an area of from the arctic north to the sub-tropical south; it also includes ridges and underwater seamounts, often characterized by a unique biology. However, in light of the present very limited knowledge of the ecosystem(s) in this area, ICES has concluded that a useful definition for the purpose of management advice is that the term ‘deep-sea fisheries’ should be applied for those fisheries in depths greater than 400 m.

3.3.1.5 Panel comment

Knowledge regarding the status of the resources managed by NEAFC is variable depending on species, stock, ecosystem, and/or other matters as is the amount of data available and/or extent to which they may have been examined and discussed within ICES. Information flow is dependent on ICES's pace in gathering such information.

NEAFC may wish to consider requesting ICES to conduct more detailed studies of possible ecological implications in relation to pelagic redfish, blue whiting and mackerel fisheries. As part of this, assumptions of minimal by-catches in the redfish, blue whiting and mackerel fisheries should be verified. Furthermore, information on possible impact of bottom trawling for Rockall haddock and deep-sea species requires further study.

NEAFC functions are dependent upon ICES agreed scientific knowledge and advice. Stock information from ICES is provided in reports but ICES' working group meetings are closed. As a consequence, disagreement and uncertainties associated with advice provided by ICES are not transparent to NEAFC or other bodies viewing the information. Steps should be taken, in partnership with ICES, to ensure that scientific disagreements regarding issues of importance to NEAFC are made clear prior to the Annual Meetings of NEAFC.

There is an internal peer review of science within ICES. However, in light of the comments given above, the Panel suggests that NEAFC may wish to discuss this process with ICES with a view to allowing parties involved in the management and use of fisheries to join this peer review process.

The Panel considers it incumbent upon NEAFC to utilize the information provided by ICES in developing its TACs, regulations, etc., but the situation which requires Coastal State agreements before NEAFC can act is a procedure that limits NEAFC's powers in this regard.

3.3.2 Quality and provision of scientific advice

Extent to which NEAFC receives advice in accordance with Article 14 of the NEAFC Convention and the Memorandum of Understanding between ICES and NEAFC

NEAFC receives advice from ICES in accordance with Article 14 of the Convention and the Memorandum of Understanding between ICES and NEAFC. Annual requests are developed by an *ad hoc* working group during the Annual Meetings and these are subsequently approved by the Commission. The format for responses, and the provision of 'standard advice', was developed by ICES.

3.3.2.1 Panel comment

The Panel notes that the consistency of the advice provided for mackerel and herring has considerably assisted NEAFC in carrying out its management responsibilities. In contrast, the management of redfish and blue whiting has been hindered due to the high variability in the scientific advice provided.

The Panel considers that requests for scientific advice have, in the past, suffered from the ad hoc nature of annual and special requests and the use of a standardized approach. The Panel considers that a move to a more formal and planned approach for formulating requests for scientific advice from ICES would be helpful. Ideally a multi-year research program should be built specifically to contribute to setting management objectives for the fisheries and /or the wider ecosystem/s in the Convention Area. In this regard the Panel welcomes the establishment of a new science/management committee of NEAFC (PECMAS).

PECMAS offers an opportunity to improve the current process by helping to formulate questions which will better address the specific needs of NEAFC fisheries. The Panel believes that NEAFC, through the operations of PECMAS, could play a greater role in determining priority areas for research and analyses with Coastal States and ICES.

The Panel considers that to date, although advice is received as per the MoU and annual requests to ICES, there is little, to no ongoing interaction to discuss issues of common interest. The Panel noted that PECMAS could also be mandated to create improved and ongoing links between NEAFC and ICES, as well as between scientists and managers within NEAFC.

The Panel notes that while NEAFC can play an important role in providing guidance on priority areas for research and analysis, it is reliant on Contracting Parties to follow these through with resources, etc.

3.3.3 Data collection and sharing

Extent to which Contracting Parties, individually or through NEAFC, collect and share, in a timely manner, complete and accurate data concerning fishing activities

NEAFC compiles provisional monthly catches of regulated, and some non-regulated species, from Contracting Parties' statistical offices. Catches are reported and split between the Regulatory Area and waters under national jurisdiction. NEAFC does not collect effort data; it is provided to ICES by

Flag States. ICES co-ordinates the collection of biological sampling data in the NEAFC Convention Area, a task that involves all the main Fisheries Laboratories in the North East Atlantic.

ICES Working Groups have the responsibility of evaluating the appropriateness of sampling and data for the purpose of stock assessments. It is generally assumed that once an analytical assessment has been attempted the scientists involved are satisfied that the data can be used to establish age distribution. There are problems with effort data and the use of fishery independent survey data is often problematic, to the point that re-analysis leads to changes in perception of the state of stocks.

Discards are not seen as a problem in the pelagic fisheries for pelagic redfish, herring and blue whiting. In the deep-sea fisheries discards of by-catches of species of no, or low commercial value are widespread, but data is scarce.

In the internal discussions and review processes in ICES¹⁸ the following points were made:

3.3.3.1 Pelagic redfish

There are problems with the catch data. Individual vessels do not always file reports and there are also significant IUU catches. Catch rate data has not been corrected. The results of the acoustic survey series are inconsistent and therefore do not indicate the actual stock status of pelagic redfish. In addition, potential problems exist with survey data since re-analysis has given varying results. Data remains ambiguous and there remains a lack of agreement about the stock structure of the pelagic redfish and its relationship to demersal fisheries.

3.3.3.2 Norwegian spring spawning (Atlanto-Scandian) herring

In 2005, there were some problems with timely reporting of the 2004 catch information. In addition, many States participating in the international fishery in 2004 did not conduct adequate sampling of their fishery. In 2005 it was noted that there was unaccounted mortality caused by fishing operations. In all probability there is a degree of underreporting. It is also possible that discarding small fish takes place, but there is no available data and therefore assessment of this is impossible.

3.3.3.3 Blue whiting

There was a problem with the late reporting of the catch of 2004 by one Contracting Party. No effort data is available relating to the measure of activity of the fisheries directed at blue whiting stock. The relevant ICES Working Group considers the absence of quantitative data demonstrating changes in the fishery to be a handicap in interpreting differences in the results of different assessments. Based on comparisons between the survey data and an analytical model of the catch data there is suggestion that there remains a contradiction between catch data and survey data. The change in fishing patterns in the last 15 years also causes problems in data interpretation.

3.3.3.4 Mackerel

Catches reported in ICES material are considered to be best estimates only. In some cases catch figures are available from processors, and where available discard or slipping estimates are also included. In most cases catch information comes from official logbook records of catches and the accuracy of these is questionable. Estimates of discarding due to high-grading or slipping are not

¹⁸ <http://www.ices.dk/iceswork/acfm.asp?topic=workinggroups> individual papers for each working group reports for 2005. See reference list

available for most countries. Anecdotal information suggests that slipping may be widespread. In addition, confidential information also suggests there is substantial under reported catches for which there is no numerical information available for most countries. There are gaps in the overall sampling for age from countries which take substantial catches. The effort, and catch-per-unit-effort, from commercial fleets have only been provided for the southern area. There is also some evidence of misreporting between Divisions IVa and VIa.

3.3.3.5 Deep-sea

Landings data has improved, but its accuracy, and hence value, depends on the effort of individual scientists as official STATLANT 27 data is unsatisfactory. Fishing effort data is of poor quality as is data on discards. Overall, the data available is such that any advice can only be based on general information regarding biology and longevity.

The NEAFC Scheme of Control and Enforcement includes requirements for the reporting of additional data by fishing vessels, such as ship positions every second hour and data related to catch and effort from the fishing grounds in the Regulatory Area. VMS data are made available to ICES but at this point in time they have not yet been incorporated into assessments. During 2005 problems were encountered in making the data available to the ICES Working Group on the Biology and Assessment of Deep Sea Fishery Resources.

3.3.3.6 Panel comment

The Panel has concerns regarding the accuracy of data reporting due to issues such as area misreporting and discarding. There is only limited checking of data for accuracy by ICES or NEAFC and efforts directed at the development of an independent verification system examining consistency of data from different sources would be useful.

The Panel has concerns regarding the lack of data related to deep-sea fisheries but notes that NEAFC is working to rectify this situation. Continuing these initiatives are important.

The Panel notes that although data was not split between the Regulatory Area and coastal zones prior to 2006, steps were taken by NEAFC and ICES to rectify this so that new sub-areas were developed and incorporated into reporting schemes. This is seen as a significant improvement.

There does not appear to be problems relating to the timeliness of data coming into NEAFC.

The Panel noted that there could be better co-ordination of all data into one database and suggests that NEAFC is well placed to do this because of the availability of VMS data.

The Panel notes that although NEAFC can only move at the pace of ICES regarding knowledge it can still play an important role in supporting the collection and dissemination of information in a timely fashion. In situations where there are data difficulties, NEAFC could take on a stronger role in facilitating solutions.

In addition NEAFC may find it beneficial to regularly follow up with ICES data collection recommendations to see how closely they are being followed and to what extent the data collected is proving worthwhile. During these discussions, it may be useful to explore other data collection issues.

3.3.4 Adoption of conservation and management measures, including measures adopted at Coastal State level

Extent to which NEAFC has adopted measures based on the best scientific evidence available and on the precautionary approach in order to ensure the promotion of the long-term conservation and optimum utilization of the fishery resources

Management measures in the Convention Area arise in the following contexts:

- Fisheries that are primarily managed by NEAFC (and as such NEAFC adopts measures for the whole stock, i.e. pelagic redfish, deep-sea species)
- Fisheries that are primarily managed by a group of Coastal States. In such fisheries NEAFC regulates fishing beyond the jurisdiction of Contracting Parties (i.e. blue whiting, Norwegian spring spawning (Atlanto-Scandian) herring, mackerel)
- Fisheries that are primarily managed by a single Coastal State. In such fisheries NEAFC regulates fishery beyond the jurisdiction of the Contracting Party (Rockall haddock)

NEAFC currently operates on the assumption that conservation as well as optimal utilization objectives are being met in the management plans developed by Coastal States where such plans exist. The assumption is that utilisation objectives are optimised for those involved in negotiating the agreements. When there is no Coastal State agreement, each Coastal State determines its own management plan, including TAC. In these situations NEAFC has limited, or no scope for management within its Regulatory Area.

3.3.4.1 Panel comment

The Panel noted that NEAFC could examine possible solutions for the Regulatory Area even in the absence of Coastal State agreements. These should be consistent with a precautionary approach.

3.3.4.2 Pelagic redfish

No precautionary reference points have been established for pelagic redfish and there are no explicit management objectives for this stock but ICES has advised that the stock is vulnerable to over-exploitation and has indicated that any advice issued ought to be on the conservative side. Presently, when evaluating stock status, it is assumed that all fisheries are exploiting one population. However, the stock structure is inconclusive as the data available supports a number of different possible hypotheses (from one-stock, to different multi-stock-hypotheses). ICES has advised that management should aim prevent a disproportional exploitation rate of the fish in the two distinct fishing areas in order to prevent local depletion. To date this has not been done.

NEAFC began managing this stock in 1996 (Appendix II) but accepted ICES advice only in 2003 and 2004. Catches have exceeded TACs in a number of years due to IUU fishing as well as the use of the Objection Procedure within NEAFC. It is significant that there remains no consensus within ICES regarding stock make-up (single or multiple stocks). There has also been no consideration of the precautionary approach in attempts to resolve this issue.

3.3.4.3 Panel comment

The Panel, while acknowledging the ongoing uncertainties regarding overall stock status and stock structure of pelagic redfish, has concerns regarding the apparent precarious status of this stock, as well as the ongoing apparent lack of commitment to resolve outstanding issues.

The Panel considers that more should be done to seek resolution of the stock definition issue in a manner that is consistent with the precautionary approach, even if the solution is a temporary measure until further scientific work can bring consensus to this issue.

3.3.4.4 Blue whiting

Estimates of spawning stock biomass and fishing mortality for blue whiting are uncertain but the stock size appears to be sufficiently high to allow full reproductive potential. It is nonetheless unlikely that current harvest levels can be sustained. There is a Coastal State management plan in place that is also applied by NEAFC but ICES has not yet evaluated this plan in relation to the precautionary approach. The exceptional recruitment and concurrent underestimations of stock size by ICES, and uncertainty regarding the status of the stock, have resulted in Coastal States being unwilling to reach agreements on management (Appendix III). A multilateral agreement by Coastal States to constrain catches was only reached for the first time for 2006. This included an agreement to reduce fishing mortality to sustainable levels within three years.

3.3.4.5 Panel comment

The Panel, in comparing the management plan with the precautionary approach reference levels documented by ICES, considers the plan to be consistent with the precautionary approach but Coastal States and NEAFC should seek specific confirmation of this as soon as possible. The agreement to reduce harvesting to sustainable levels within three years is seen as a positive step.

3.3.4.6 Norwegian spring spawning (Atlanto-Scandian) herring

Based on the most recent estimates of spawning stock biomass and fishing mortality, the Norwegian spring spawning herring is considered to have full reproductive capacity and is being harvested sustainably. There is a management plan in place for this stock and ICES considers it to be consistent with the precautionary approach. For many years there were Coastal State agreements regarding overall TACs and their allocation, but there has not been any agreement for the past four years (Appendix IV). During the four years without agreement, Coastal States exercised restraint only for the first two years.

3.3.4.7 Panel comment

The Panel considers that the precautionary approach is being applied in the management plans for this fishery. Although there has been reasonable success in reaching Coastal State agreements, the lack of agreement for the past four years is of concern to the Panel as this limits NEAFC's ability to manage resources in the Regulatory Area. The difficulties in reaching agreement appear to be escalating and the Panel is concerned that continuing lack of resolution will lead to serious problems in the future due to overall loss of control and an increasing race to fish. In addition to negatively impacting the herring resource itself, uncontrolled fishing activity could have serious ecological implications given the importance of herring in the food web in the area. The Panel strongly encourages NEAFC to provide all possible support to the Coastal States in their attempts to reach agreement.

3.3.4.8 Mackerel

The harvesting of stock of Northeast Atlantic mackerel is not considered sustainable. There is a management plan in place for this stock that is considered by ICES to be consistent with the precautionary approach. There have been Coastal State agreements regarding overall TACs (Appendix V) and their allocation in recent years, although a separate quota is still maintained relating to the southern component.

There are notable problems with catch reporting for this stock. Investigations underway to deal with this misreporting issue have already found 133,000 t in unreported catches. The Coastal States, the EU, the Faroe Islands and Norway have adopted a series of control measures regarding the weighing and inspection of landings for mackerel that should help to resolve this problem.

3.3.4.9 Panel comment

The Panel considers that the precautionary approach is being applied in the management plans for this fishery. The Panel noted that information regarding the issue of a separate southern component is not transparent and steps should be taken to resolve this as, even with Coastal State agreements, overall TACs exceed the management plan due to this additional quota and catch.

The Panel also noted that there is progress being made in reaching Coastal State agreements, including the adoption of control measures to remedy deficiencies in catch reporting. NEAFC could capitalise on this progress by broadening the scope of such measures through the development of general enforcement mechanisms, such as weighing, landing controls etc.

3.3.4.10 Rockall haddock

The issue of Rockall haddock was brought to NEAFC's attention as a result of changes in the limits of the Regulatory Area. At present there is no TAC management by NEAFC, nor is there a long-term management plan in place (Appendix VI). NEAFC, working under the constraints of an unregulated fishery, introduced a closure in the area to protect juvenile haddock in 2002. The EU and the Russian Federation, while not yet reaching agreement regarding overall management, agreed to the closure. Whether this closure is sufficiently precautionary or not is unknown at present. ICES has advised that there is a need for an internationally agreed management plan. In consultation with the Russian Federation a recovery plan has been proposed by the EU but not yet implemented.

3.3.4.11 Panel comment

The Panel endorses the ICES advice, noting the need for compatible management for the entire stock. As such, NEAFC should continue to support the Coastal State and work towards the implementation of consistent management in the Regulatory Area. It is noted that NEAFC has closed a portion of the area for the protection of juvenile haddock. This is seen as a positive step.

3.3.4.12 Deep-sea species

Expansion of the deep-sea fisheries has been rapid, and at a greater pace than scientific information has become available (VII). It is believed that most species and stocks are not being fished sustainably and ICES has recommended immediate reductions in the fisheries unless they can be shown to be sustainable. It is also believed that within the ICES area some species/stocks have been depleted before appropriate management measures have been implemented. Experience has shown that some deep-sea species with life history strategies characterised by long life-spans, high age at

maturity, and slow growth (e.g., orange roughy, blue ling) can be depleted very quickly and recovery will be slow. ICES has also expressed concern that localized sub-units of populations (often associated with seamounts) can be quickly depleted by fisheries, even within a single season.

Some deep-sea fisheries were regulated by unilateral or internationally agreed TACs in 2003 and this may have curbed the growth in fishing. In the NEAFC Regulatory Area, Contracting Parties agreed to freeze effort in 2003 and 2004, and then reduce it by 30% for 2005 and 2006. There are no long term management objectives, nor are there any long term management plans in place. There remain questions as to appropriate management. It is unknown whether the 30% reduction in effort is sufficiently precautionary or not. While useful, the effort reduction may not, alone, deal with some of the species/stock issues.

3.3.4.13 Panel Comment

The Panel acknowledges the difficulties in dealing with deep-sea species/fisheries in the NEAFC area, as well as other locations globally, and considers it a positive sign that NEAFC is addressing these issues through the creation of a Working Group on Deep-Sea Species.

The Panel nonetheless considers the situation for deep-sea species to be inadequate, in particular as regards knowledge of the species, nature of the fisheries, status of the resources and management planning. This is a critical issue that NEAFC needs to address as a priority and every effort should be made to develop the necessary fisheries database to begin this process.

The Panel, while acknowledging the reduction of effort imposed by NEAFC, does have concerns about the effectiveness of this reduction, due to the variety of possible measures applicable and the different benchmarks (time periods) against which effort can be reduced. There has, most likely, been some reduction in fishing mortality since the late 1990s but this has been driven more by increased fishing costs and reduced economic returns than by any management measures. NEAFC may wish to examine this situation more closely.

NEAFC should continue to play a critical role in ensuring that new exploratory or expanding fisheries develop in accordance with the precautionary approach. It would also be valuable for NEAFC to review the current data situation and, following such a review, discussions should take place with ICES to determine what NEAFC might do to improve the data base.

3.3.5 Sustainable economic, environmental and social benefits

Extent to which NEAFC provides sustainable economic, environmental and social benefits

As noted above, NEAFC operates on an implicit assumption that sustainable economic and social benefits are met in allocation agreements negotiated between Coastal States. NEAFC has not conducted any specific analyses of these benefits for its Regulatory Area and the Panel did not have sufficient resources to undertake such an analysis.

Environmental issues are addressed in the following section.

3.3.5.1 Panel Comment

The Panel views the lack of understanding of the sustainable economical and social benefits available, or being realized in the Convention Area as a critical gap in NEAFC's operations. The Panel considers it unlikely that such benefits are being optimised given that many of the fisheries in the Convention Area are industrial level fisheries being fished, in practice, under open access

conditions. Consequently a portion of the economic rents available from these fisheries is most probably being dissipated at the expense of optimal economic or social outcomes.

3.3.6 The need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems

Extent to which NEAFC has taken due account of the need to minimise harmful impacts of fisheries on living marine resources and marine ecosystems and to conserve marine biological diversity

The major fisheries within the purview of NEAFC are pelagic and are considered 'clean' in nature, with little to no by-catch. They are not considered to have negative environmental impacts on benthic habitats or in terms of by-catch, with the possible exception of shark by-catches.

ICES noted that the Norwegian spring-spawning herring, both juveniles and adults, form an important part of the ecosystems in the Barents Sea, the Norwegian Sea and the Norwegian coast. Herring has an important role as transformer of the plankton production to higher trophic levels (cod, seabirds, and marine mammals). As such, excessive fishing of this stock could have ecological implications for other species.

There are potential issues related to deep-sea trawling as well as bottom trawling on Rockall Bank as this practice may be taking place on sensitive habitats. The extent of this environmental impact is unknown at present.

Possible ghost fishing from lost gillnets is a concern, but analyses have not been conducted on the extent of this risk.

NEAFC has taken steps to address the environmental impacts of certain fishing practices through the introduction of gear restrictions, the establishment of a closed area on Rockall Bank, as well as the establishment of five precautionary closed areas in deep-sea. NEAFC will also examine a proposal for the creation of a process for implementing closures during its Annual Meeting in 2006.

3.3.6.1 Panel comment

The Panel notes that NEAFC is beginning to address the issue of ghost fishing in deep-sea areas through its Working Group on Deep-Sea Species. NEAFC is also beginning to address more environmental/ecological issues through its application of closed areas, moratoria on shark fishing, the ban on use of gillnets in depths beyond 200 metres, and by developing procedures for closing new areas.

The Panel considers that the steps taken by NEAFC are positive in the face of uncertainty, but it is not possible to evaluate whether they are adequate. It is important for NEAFC not only to determine the specific objectives it is trying to achieve with these different measures but also to develop a comprehensive strategy of protection that includes specific management measures with appropriate monitoring strategies to evaluate their success.

NEAFC has implemented data collection protocols for by-catch that are now coming into force. It must continue to play a role in the collection of information concerning by-catches. The Panel notes that ultimately it is up to the Contracting Parties to implement NEAFC recommendations. Furthermore, NEAFC should follow up with ICES in order to evaluate the success of its initiatives.

3.3.7 Compatibility of management measures

Extent to which measures have been adopted as set out in Article 7 of UNFA

Article 7 of UNFA addresses the need for compatibility of conservation and management measures. In particular that Article requires that conservation and management measures established for the high seas, as well as those adopted for areas under national jurisdiction, should be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety.

In determining compatible conservation and management measures, States (through RFMOs) are required to take into account:

(a) the conservation and management measures adopted and applied in respect of the same stocks in accordance with Article 61 of UNCLOS by Coastal States within areas under national jurisdiction, and to ensure that measures established in respect of such stocks do not undermine the effectiveness of such measures

(b) previously agreed measures established and applied for the high seas in accordance with UNCLOS in respect of the same stocks by relevant Coastal States and States fishing on the high seas

(c) previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a sub-regional or regional fisheries management organization or arrangement

(d) the biological unity, and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction

(e) the respective dependence of the Coastal States and the States fishing on the high seas on the stocks concerned

(f) that such measures do not result in harmful impact on the living marine resources as a whole

The Agreement requires compatible conservation and management measures to be agreed upon within a reasonable period of time, otherwise any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII of the Agreement. Pending agreement on compatible conservation and management measures, the States concerned are required to enter into provisional arrangements of a practical nature. In addition, Coastal States are required to regularly inform States fishing on the high seas in the sub-region, or region, either directly, or through appropriate sub-regional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction. States fishing on the high seas are also required to regularly inform other interested States, either directly or through appropriate sub-regional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels fishing for such stocks on the high seas that fly their flag.

The NEAFC Convention implements the requirements under Article 7 of the Agreement in its Article 5. This article requires that NEAFC, in making recommendations concerning fisheries conducted beyond the areas under jurisdiction of Contracting Parties, ensure consistency between:

(a) any recommendation that applies to a stock or group of stocks occurring both within an area under the jurisdiction of a Contracting Party and beyond, or any recommendation that would have an effect through species inter-relationships on a stock or group of stocks occurring in whole or in part within an area under the jurisdiction of a Contracting Party.

(b) any measures and decisions taken by such Contracting Party for the management and conservation of that stock, or group of stocks, with respect to fisheries within the area under its jurisdiction.

The appropriate Contracting Party and the Commission are required to promote the co-ordination of such recommendations, measures and decisions and each Contracting Party is under a duty to keep the Commission informed of its measures and decision.

Furthermore, under Article 6 of the NEAFC Convention, the Commission may make recommendations and give advice concerning fisheries conducted within an area under jurisdiction of a Contracting Party, provided that the Contracting Party in question requests it and, in the case of recommendations, if the recommendation receives the requesting Party's affirmative vote. Although the Article does not explicitly require the measures recommended by NEAFC to the Coastal State to be compatible, it is assumed that if the Coastal States requests NEAFC to recommend measures or provide advice for its EEZ, this would be done in a compatible manner by NEAFC otherwise the Coastal State would not vote affirmatively on the proposed measures.

The way in which compatibility has been understood and implemented by the Commission is that measures adopted by NEAFC for the Regulatory Area must be compatible with measures established in the waters under the jurisdiction of Coastal States.

Information which relates to national measures adopted by the Coastal States was collected and published by NEAFC in 1986 in the form of a binder with Technical Conservation Measures in force 'in the zones under the fisheries jurisdiction of Contracting Parties and the Regulatory Area'. The information provided included minimum fish sizes, minimum mesh sizes, by-catch rules, attachments to nets, measurement of mesh sizes and logbooks. The document was intended for reference only and has no legal status. As a matter of fact, many of the measures listed are measures that were in place under the North-East Atlantic Fisheries Convention of 24 January 1959, which in most cases reflected national legislation.

3.3.7.1 Panel comment

The Panel was satisfied that Articles 5 and 6, albeit indirectly, require NEAFC to ensure consistency of management between measures adopted by the Coastal State in the waters under its jurisdiction and the measures adopted for the Regulatory Area, in conformity with Article 7 of the Fish Stocks Agreement. However, the Panel notes that there is no mechanism established to ensure the on-going transmission of information by the Contracting Parties on their national measures and decisions in order to keep the Commission informed. As a result, updated information on Coastal States' regulatory measures, such as gear restrictions, by-catch rules etc., as well as quota controls were not available and therefore the Panel was unable to comment on the compatibility of the measures adopted for coastal waters and for the Regulatory Area. The Panel strongly encourages that a mechanism for the transmission of national measures and decisions be established.

Furthermore, the Panel is concerned that consistency of management measures for blue whiting, herring and mackerel can only be assured when there is Coastal State agreement regarding the

annual overall harvest limit and its allocation. In the absence of such agreement, Coastal States set their own catch levels which are to be applied to their national waters as well as to activities of their vessels in the Regulatory Area. This may lead to controlled management within national jurisdiction but not in the Regulatory Area. Such management failure, in effect, creates a compatibility problem.

3.3.8 Fishing allocations

Extent to which NEAFC successfully allocates fishing opportunities

3.3.8.1 Panel comment

The Panel notes that NEAFC does not lead the allocation process. The process followed for particular fisheries described in the section above has not always been successful for redfish, and as mentioned earlier, lack of resolution on how to deal with the stock issue has been a key road block preventing the development of successful allocation agreements in recent years.

The Panel considers that successful resolution of allocation issues is crucial for successful management in the Regulatory Area. As such, the highest priority for NEAFC should be to encourage consistency and certainty into this process across all fisheries in the Convention Area. The Panel nonetheless acknowledges that, at least initially, these decisions rest in the hands of the Coastal States rather than NEAFC.

3.3.9 Monitoring and Control

Monitoring and control provisions for fisheries in the Convention Area have been adopted in the NEAFC Scheme of Control and Enforcement and the Non-Contracting Party Scheme. It is planned to integrate these two Schemes and to include Port State control measures. The NEAFC Scheme includes control measures, monitoring of fisheries, and rules concerning inspections and follow up of infringements. In the Non-Contracting Party Scheme provisions have been adopted for the establishment of IUU lists and measures to be taken with regard to vessels that appear on such lists.

3.3.10 Flag State duties

Extent to which Contracting Parties are fulfilling the duties as Flag States under the NEAFC Scheme, UNFA Article 18 and the 1993 FAO Compliance Agreement

At its Annual Meeting on 20 November 1998, in accordance with Article 8 of the Convention, NEAFC adopted a recommendation on a Scheme of Control and Enforcement (the Scheme) in respect of fishing vessels fishing in areas beyond the limits of national fisheries jurisdiction in the Convention Area. The Scheme entered into force on 1 July 1999. It has been amended annually since that time in order to clarify text and iron out inconsistencies.

The Scheme lays down the obligations of Contracting Parties as well as various tasks to be performed by the Secretariat. According to the Scheme, each Contracting Party shall take the following actions:

1. Authorise the use of fishing vessels flying its flag for fishing activities on fisheries resources in the Regulatory Area where it is able to effectively exercise its responsibilities in respect of such vessels.
2. Ensure that only authorised fishing vessels flying its flag conduct fishing activities on fisheries resources in the Regulatory Area.

3. Ensure that fishing vessels flying its flag comply with applicable recommendations adopted under the Convention.
4. Undertake to manage the number of authorised fishing vessels and their fishing effort in a way which is commensurate with fishing opportunities available to the Contracting Party in the Regulatory Area.
5. Ensure that only authorised fishing vessels may engage in transshipment operations or joint fishing operations in the Regulatory Area.

All Contracting Parties have adopted the same rules in their national fisheries laws for fishing vessels flying their flag and fishing in the Regulatory Area. The first years of the Scheme represented a learning period as the 19 participating land based fisheries monitoring centres (FMCs) concentrated on understanding procedures. Over the most recent 3 years, implementation and automation of the Scheme has generally been satisfactory, although there is scope for improvement in some areas. For example, there have been setbacks for certain FMCs, especially when reporting messages for catch on entry and exit, transshipments and automatic messages for entry and exit by vessels to and from the Regulatory Area.

3.3.10.1 Panel comment

The Scheme enacts the provisions laid down in Article 18 of UNFA as well as the 1993 FAO Compliance Agreement. In this context The Panel has concluded that the Contracting Parties largely fulfil their duties as Flag States. NEAFC in fact has been in the forefront in using new technologies for monitoring fisheries. As outlined above, performance could be improved, but given the innovative use of VMS and communications for control purposes some developmental hurdles are to be expected.

3.3.11 Monitoring, surveillance and control activities

Extent to which Contracting Parties implement the relevant parts of the NEAFC Scheme and the non-Contracting Party Scheme

The VMS database is the major element in monitoring and controlling Contracting Party vessels fishing in the Regulatory Area. The inclusion of additional port control measures of Contracting Party vessels into the Scheme being developed at present. Final decisions are expected by NEAFC in November 2006. In addition IUU fishing by non-Contracting Party vessels is being addressed with A and B-listings and relevant port control measures. The following sections examine these matters in more detail.

3.3.12 The NEAFC Scheme of Control and Enforcement

An important feature of the Scheme is the degree to which the automatic transmission of messages and handling of data plays a part. Each Contracting Party agreed to implement VMS for fishing vessels which exceed 20 metres between perpendiculars, or 24 metres overall length which fish, or plan to fish, in the Regulatory Area by no later than 1 January 2000. They also committed themselves to:

1. a) require their fishing vessels, fishing in the Regulatory Area, to be equipped with an autonomous system able to automatically transmit messages to an

- FMC allowing a continuous tracking of the position of a fishing vessel by the Contracting Party
- b) ensure that the satellite device would enable a fishing vessel to communicate by satellite to the Contracting Party while relating the following data:
 - vessel identification
 - most recent geographical position of the vessel (longitude, latitude) with a position error less than 500 metres and a confidence interval of 99%
 - date and time of the fixing of the said position of the vessel
 - where applicable, data relating to the catch on board
 - where applicable, data relating to transshipment
 - c) take the necessary measures to ensure that the FMC receives (through the VMS) the messages requested in paragraph 1(b).
 - d) communicate VMS positions of its vessels, as well as catch and transshipment reports and messages to the Secretary without delay (special rules apply in the event of technical malfunction).

Reports and messages are transmitted between the Contracting Party and the Secretary in accordance with data exchange formats and protocols established under the Scheme. In particular the use of the so-called 'North Atlantic Format' has been important in ensuring the standardisation of messages.

The data in the NEAFC VMS database are primarily there to assist inspection platforms from Contracting Parties on NEAFC service to obtain information on where the fisheries take place in order to enable the platform to work with maximum efficiency.

The inspectors' site at the NEAFC website makes other information available to inspectors and allows inspectors to input information from inspection campaigns in real time.

It should be noted that not all Contracting Parties contribute to inspection and surveillance to the extent that their fishing presence requires.

3.3.12.1 Panel comment

The Panel considers that more attention could be paid to quality control. For example, entry and exit messages could be cross-checked and messages concerning transshipments should be systematically checked to verify that there is a match between donor and receiver vessels' reports. When the transshipment operations involve vessels of more than one flag, this is a task that can only be performed by the Secretariat.

In addition, although Contracting Parties inform NEAFC about their inspection campaigns in the Regulatory Area, there is scope for improvement in the coordination of the allocation and deployment of inspection resources. A closer degree of co-operation has developed as regards the monitoring of IUU activities (see below).

It should be noted that one Contracting Party has, until now, not deployed inspectors or inspection vessels in the Regulatory Area, despite having a significant fishing presence. According to the Scheme, a Contracting Party with more than 10 fishing vessels engaged in fishing activities

conducted on regulated resources in the Regulatory Area should have an inspection vessel or co-operate with another Contracting Party to jointly operate such a vessel.

The compliance of Contracting Parties, and follow up on the results of inspections and reported infringements is reviewed by the NEAFC PECCOE) every year and reported to the NEAFC Commission Annual Meeting. The (mainly) clean fisheries, and limited number of regulations (in practical terms there are no gear regulations) limits the number of reported infringements.

The Panel notes that there is scope for a greater use of the NEAFC database. In the case of an unallocated TAC, such as for redfish, an estimation of accumulated catches and anticipated date of the exhaustion of the TAC could be made and advised by the Secretariat. This would necessitate an amendment of the Scheme of Control and Enforcement. The Panel notes however that such a management approach should only be considered in conjunction with a robust allocation arrangement so as not to stimulate, or exacerbate Olympic fishing activities in a race to catch the TAC.

NEAFC has been quite ambitious in the use of new technologies. The system is based on sophisticated instruments and, although it has encountered some problems of implementation and still requires improvements, it provides a good basis for developing a management framework for the future. The main criticism is that the system is underutilized. Furthermore, the current deployment of inspection activities in the Regulatory Area means this not shared equitably between Contracting Parties.

3.3.13 The Non-Contracting Party Scheme

The activities of IUU vessels constitute one of the greatest challenges for NEAFC in control and enforcement. Their activity in the redfish fishery on the Reykjanes ridge (south-west of Iceland) is particularly damaging to resources in the Regulatory Area.

As with the main Scheme, NEAFC has led other RFMOs in developing a regime for addressing non-Contracting Party presence in the Regulatory Area. At its Annual Meeting on 20 November 1998, NEAFC adopted a recommendation on a scheme to promote compliance by Non-Contracting Party vessels with recommendations established by NEAFC (NCP Scheme). The NCP Scheme was amended in 1999, 2001, 2003, and 2004 and reflects the objectives of the International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing which were adopted by the FAO in 2001.

The most significant change was the introduction of a so called 'A'-list and 'B'-list as well as accompanying port control measures that came into effect in 2004. The main steps in establishing and maintaining these lists are as follows:

1. The Secretary shall place on a provisional list of IUU vessels (referred to as the 'A' list) the Non-Contracting Party vessel, or vessels sighted as being engaged in fishing activities in the Regulatory Area.
2. The President shall request the Flag States(s) to report back to NEAFC the results of enquiries and/or the measures it has taken in respect of the vessel, or vessels concerned. The President shall also provide the Flag State with a copy of this Scheme, notify the dates when PECCOE will be considering the composition of the IUU lists, and encourage the Flag State to communicate any relevant information to the Secretariat in an expeditious manner. The Secretary shall promptly distribute any information received to all Contracting parties. The President shall also request the

Flag State to report back to NEAFC the results of enquiries, and/or the measures it has taken in respect of the vessel or vessels.

3. Each year, on the basis of the reports drawn up, as well as any other relevant information, PECCOE shall consider the 'A' list and, as appropriate, recommend to NEAFC that the vessels be removed or transferred to a confirmed IUU list (referred to as the 'B' list).

At the same time PECCOE shall undertake a review of the 'B' list and, as appropriate, recommend to NEAFC that vessels are added or removed. PECCOE shall only recommend that NEAFC 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
- b) it has taken measures to ensure that granting the right of the to the vessel to fly its flag will not result in IUU fishing activities
- c) the vessel has changed ownership and the new owner can establish that 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
- d) the vessel did not take part in IUU fishing activities
- e) the vessel was only fishing for unregulated resources, fulfilled all relevant obligations as set out in Article 10
- f) the vessel was fishing on a co-operation quota and fulfilled all relevant obligations as set out in Article 10

The 'A' and 'B' lists are placed on the NEAFC website by the Secretariat.

3.3.13.1 Panel comment

The first 'B' list was only established in 2005. As it has taken a leading role in implementing measures to curb IUU activities, the experience of NEAFC could be a useful reference for other RFMOs in this respect.

The operation of the NCP Scheme has resulted in some success but its practical application has shown there are shortcomings which need to be addressed. In particular, the measures on Port State control must be clarified and reinforced (see below). The effectiveness of the NCP Scheme also depends on close co-operation between Contracting Parties and the Secretary in 'real time'. Operational co-ordination has improved but further progress could be made. For example, closer contacts have developed between the Icelandic coastguards. This provides valuable aerial surveillance of the redfish fishery and inspection vessels deployed by EU Member States. There is, nonetheless, a need for a more coherent and better organised allocation of inspection means.

In addition the Panel suggests that the effectiveness of the measures to combat IUU fishing could be strengthened through the reciprocal recognition of IUU lists between NAFO and NEAFC which are scheduled to come into effect from 2007.

3.3.14 Port State measures

Extent to which Contracting Parties implement port State obligations under the NCP Scheme and UNFA Article 23

An important characteristic of the IUU fishing activity in the Convention Area is the transshipment at sea of catches to transport vessels. These vessels often land their cargo in the EU into ports which are not fishing harbours. This fish is often transported on further to a third country for marketing (e.g. Japan), or for processing (e.g. China). In the latter scenario, the processed product often returns to the market in the territories of Contracting Parties, in particular the EU.

Port State control is a key element in the control of these activities. Under the NCP Scheme, when an NCP vessel enters a port of any Contracting Party, it should be inspected by authorised Contracting Party officials who are knowledgeable of the recommendations established under the Convention and therefore would refuse to land, or tranship, any fish until an inspection has taken place. Such inspections should include the vessel's documents, logbooks, fishing gear, catch onboard and any other matter relating to the vessel's activities within the Regulatory Area.

Information on the results of all inspections of non-Contracting Party vessels conducted in the ports of Contracting Parties, and subsequent action, should immediately be transmitted to the Secretary.

Vessels appearing on the IUU list that enter ports are not authorised to land or tranship but will be inspected. Vessels on the 'A' list may land fish that is not the subject of recommendations adopted by NEAFC. Fishing vessels, support vessels, refuel vessels, the mother-ships and cargo vessels flying the flag of a Contracting Party are not, in any way, to assist IUU vessels, or participate in any transshipment or joint fishing operations with vessels registered on the IUU lists. The supply in ports of Contracting Parties of provisions, fuel or other services to vessels registered on the IUU lists is also prohibited.

As with the Scheme and NCP Scheme, NEAFC is in advance of other RFMOs in implementing Port State control measures. The events described in Appendix IX illustrate the practical difficulties arising from implementation of these measures. It was found that Contracting Parties could not prohibit the entry into port of vessels on the IUU lists and could only deny the provision of services once they were actually in the port. If it were to be interpreted that such services might include pilot and harbour services a conflict could arise for harbour authorities in deciding priorities between ensuring maritime safety in the port and combating IUU fishing activities.

As a first step to addressing the loopholes in the NCP Scheme, in May 2006 the Commission adopted a measure prohibiting vessels on the 'B' list to enter ports of Contracting Parties except in the case of maritime emergencies.

The experience gained in implementing the measures demonstrated a basic weakness in methodology for the control of IUU fishing. The present NCP Scheme, which is based on the approach agreed at the international level, concentrates on the action that can be taken towards the vessels engaging in IUU activities. Little attention is paid to controlling fish that has been caught. None of the vessels which have been identified as having engaged intensively in the redfish fishery have, to anyone's knowledge, entered into port with fish on board. Instead the fish is transhipped at sea and landed by reefers.

Further work is continuing on the development of more comprehensive Port State control measures, based on the FAO model scheme established in 2005. Such work is aimed at merging the main NEAFC and the NCP Scheme into one scheme that would cover activities at sea and in ports by both

Contracting Parties and NCPs. The Port State Control measures would also address the situation where fish is landed by reefers.

An additional innovation would be to extend the scope of the new Scheme to cover landings by foreign vessels of frozen fish caught in the Convention Area. The objective of such a provision would be to control more closely landings of Barents Sea cod. Certain amendments that are being proposed, which go beyond the provisions laid down in the FAO model scheme, would impose additional responsibilities upon Flag States to verify and authenticate the information provided by their fishing vessels prior to landing.

3.3.14.1 Panel comment

The establishment of 'A' and 'B' lists, and the introduction of rules regulating the entry and exit of IUU vessels in port, have improved the control of IUU fishing. The Panel considered that the Scheme adequately implements relevant global instruments. However, it was noted that these instruments did not go far enough or, perhaps, are too theoretical in their construct. Therefore, the practical implementation by NEAFC of their provisions demonstrates the need to adapt them to suit the specific nature of the fishing activities in the RFMO concerned. For example, the Port State control provisions already under discussion go beyond the measures laid down in the FAO model scheme.

It is evident that there is no quick and easy solution to this problem. However, NEAFC has demonstrated that it is capable of acting quickly to address specific issues. The closure of ports to vessels on the IUU 'B' list and the development of comprehensive Port State Control measures are examples of how NEAFC can respond to unfolding events.

3.3.15 Other enforcement-related issues, including follow up on infringements

Extent to which Contracting Parties are following up on infringements to both Schemes and management measures by which they are bound

Monitoring and follow up, with respect to Contracting Party vessels, has been covered in the previous section. In this respect the lack of conservation and enforcement measures means that there are in fact few infringements to follow up. With respect to combating IUU fisheries and follow-up, these issues have also been covered in the previous section, as well as in the case studies, as appended.

3.4 Decision making

Extent to which NEAFC has established adequate decision making procedures and mechanisms for solving possible disputes

Under the NEAFC Convention, decision making is regulated by Article 3(9), which provides for decisions to be adopted by simple majority unless a qualified majority is specifically required pursuant to the Convention.¹⁹ The adoption of recommendations on management measures, Article 5 (2),²⁰ Article 8 (1)²¹ on control measures and on the collection of statistical information, Article

¹⁹ Article 3

9. Each Contracting party shall have one vote in the Commission. Decisions of the Commission shall be taken by a simple majority, or, if this Convention specifically requires a qualified majority, by a two-thirds majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two thirds of the Contracting Parties. If there is an even division of votes on any matter which is subject to a simple majority decision, the proposal shall be regarded as rejected.

²⁰ Article 5:

9(1) relating to areas beyond the fisheries jurisdiction of Contracting Parties are to be adopted on the basis of qualified majority. At present this means that 4 out of 6 Contracting Parties have to vote in favour of these measures for them to be adopted.

Under the Rules of Procedure of NEAFC (Chapter 6 – Voting, as amended by the Extraordinary Meeting of NEAFC in April 2002), votes are taken by a show of hands, or by roll call in the English alphabetical order of the names of the Contracting Parties, or by ballot, as determined by the Commission. The President is requested to call for votes where required and announce their results to the Commission. A vote may, in an emergency, be taken by post or other means of written communication. In such a case the issue to be put to a vote and the closing date of the voting period of 30 days is communicated to all Contracting Parties by the Secretariat. The outcome of the vote is then communicated immediately to all Contracting Parties, if applicable, starting the objection period as set out in Article 12 of the Convention.

In practice, decisions on stocks within the jurisdiction of NEAFC Contracting Parties are taken mainly by a Coastal State (as in the case of Rockall haddock), or by groups of Coastal States (as in the case of blue whiting, Norwegian spring spawning ‘Atlanto-Scandian’ herring and mackerel) while the NEAFC decision-making role is limited to fisheries in the NEAFC Regulatory Area. Beyond this the waters are under the jurisdiction of Contracting Parties.

As regards the Regulatory Area, the relevant Coastal States groups agree on total catch levels and allocations and, on the basis of their agreements, NEAFC measures are tabled, discussed and adopted. This is the case for the following stocks:

- 1) herring, for which Denmark (in respect of the Faroe Islands and Greenland), the EU, Iceland, Norway and the Russian Federation agree on the measures
- 2) mackerel, for which Denmark (in respect of the Faroe Islands and Greenland), the EU and Norway agree on the measures
- 3) blue whiting, for which Denmark (in respect of the Faroe Islands and Greenland), the EU, Iceland and Norway agree on the measures.

With respect to deep sea fisheries, the NEAFC Commission deals with all aspects of establishing management measures.

3.4.1.1 Panel comment

The Panel notes that in the case of the Regulatory Area, while NEAFC has a decision-making role in terms of the management of resources, in practice decisions on a number of stocks are made outside NEAFC. This leaves NEAFC with a limited residual role in decision-making in respect of the management of stocks. This has not been the case for redfish,²² but that is changing.

1. The Commission shall, as appropriate, make recommendations concerning fisheries conducted beyond the areas under fisheries jurisdiction of Contracting Parties. Such recommendations shall be adopted by **a qualified majority**.

²¹ Article 8

2. The Commission may by **a qualified majority** make recommendations concerning measures of control relating to fisheries conducted beyond areas under the fisheries jurisdiction of Contracting Parties for the purpose of ensuring the application of this Convention and any recommendations adopted there under.

²² The Coastal State for redfish is Denmark (in respect of the Faroe Islands and Greenland) and Iceland.

3.4.2 Objection procedure

Under Article 12, a recommendation becomes binding on the Contracting Parties at a date determined by the Commission, but not before 30 days after the expiration of the period, or periods of objection. The objection period allows any Contracting Party, within 50 days of the date of notification of a recommendation adopted under Articles 5, 8 or 9, to object to it. In the event of such an objection, any other Contracting Party may object within 40 days after receiving notification of that objection. If any objection is made within this further period of 40 days, other Contracting Parties are allowed a final period of 40 days after receiving notification of that objection in which to lodge further objections. A recommendation does not become binding on a Contracting Party which has objected to it.

If more than one-third of Contracting Parties have objected to a recommendation it does not become binding on any Contracting Party. When a recommendation is not binding on any Contracting Party, a Contracting Party which has objected to a recommendation may, at any time, withdraw that objection and shall then be bound by the recommendation within 70 days, or from the date determined by the Commission under paragraph 1, whichever is the later. If a recommendation is not binding on any Contracting Party, two or more Contracting Parties may nevertheless, at any time, agree among themselves to give effect of it, in which event they shall immediately notify the Commission accordingly. The Commission is required to notify the Contracting Parties of any objection and withdrawal immediately upon their receipt, and of the entry into force of any recommendation and of the entry into effect of any bilateral agreement amongst Contracting Parties.

An inherent part of the dispute settlement procedures agreed in 2004 is that the objecting party has to qualify its objection and also inform the Commission which domestic regulations have been brought into place to regulate its fishery (see Section 3.3.2.1 and 3.4.2).

There have been repeated objections to management measures for redfish and mackerel by two Contracting Parties. These objections have been based on lack of agreement in granting a Contracting Party the status of 'Coastal State', the interpretation and use of scientific information provided by ICES, and the consequent lack of consensus with respect to the appropriate TACs established.

3.4.2.1 Panel comment

The Panel considers that the Parties to NEAFC should ensure that the use of the objection procedure does not undermine conservation of the resources and is supported by the dispute settlement mechanism which can assist Parties to resolve the underlining reasons for the objection. Furthermore, interim measures should be agreed upon and implemented while disputes are being resolved.

3.4.3 Amendments to the Convention and Rules of Procedure

Under Article 19, any Contracting Party may propose amendments to the NEAFC Convention. Proposed amendments must be sent to the Secretary at least 90 days prior to the meeting at which the Contracting Party proposes it to be acted upon. The Secretary then transmits the proposal immediately to the Contracting Parties. In order to be adopted, a proposed amendment requires a three-fourths majority of all Contracting Parties. Once adopted, the amendment is transmitted by the Commission to the Depositary, which forwards it to the Contracting Parties. Amendments take effect for the Contracting Parties 120 days following the date of the notification by the Depositary, unless any other Contracting Party notifies the Depositary, within 90 days of the date of the notification by

the Depositary of such receipt, that it objects to the amendment, in which case the amendment shall not take effect for any Contracting Party. A Contracting Party which has objected to an amendment may, at any time, withdraw its objection. If all objections to an amendment are withdrawn, the amendment takes effect for the Contracting Parties 120 days following the date of the notification by the Depositary of receipt of the last withdrawal.

As regards the Rules of Procedure, under Chapter 9 these may be amended by a simple voting majority of the Contracting Parties provided that the text of the proposed amendments has been included in the provisional agenda. However, those rules of procedure which are also provisions of the Convention may only be amended under the provisions set out under Article 19 of the Convention.

At its 24th Annual Meeting in 2005 it was agreed to amend the NEAFC Convention on the basis of a proposal presented by Iceland in order to modernize the Convention and bring it in line with policy and legal developments since 1982, in particular with the UN Fish Stocks Agreement, the FAO Compliance Agreement and the FAO Code of Conduct. The proposal reflected a consensus by all Contracting Parties and was adopted by consensus by postal vote in 2006 after two Contracting Parties (EU and Russian Federation) finalized their internal procedures.

3.4.3.1 Panel comment

The Panel notes that that the amendment was successfully adopted and Contracting Parties have agreed to use the amendments on a voluntary and provisional basis, pending ratification.

3.4.4 Dispute settlement mechanism

In order to facilitate a conclusive end to disputes, a fast track dispute settlement procedure was decided upon by consensus of Contracting Parties in the form of an amendment to the NEAFC Convention in 2004. The amendment made it mandatory to explain the reasons for any objections, which in the past had been done on a voluntary basis, and established the procedures for setting up arbitration panels to settle disputes. These amendments²³ were adopted at the 24th Annual Meeting in 2005. Rules of procedure for arbitration panels were agreed upon at the Extraordinary Meeting of the Commission in April 2002. The Contracting Parties agreed to apply them on a provisional and voluntary basis even in advance of the entry into force of the amendments.²⁴ No arbitration panels have been established to date.

²³ The new Article 18 bis reads:

The Commission shall make recommendations establishing procedures for the settlement of disputes arising under this Convention.

²⁴ The Rules Concerning the Panel Procedure read as follows:

1. The Secretary shall establish and maintain a list of experts who are willing and able to serve as Panellists. Each Contracting Party shall be entitled to nominate up to five experts whose competence in the legal, scientific or technical aspects of fisheries covered by the Convention is established. The nominating Party shall provide information on relevant qualifications and experience of each of its nominees.

2. The Parties to the dispute shall notify the Secretary of their intention to submit a dispute to an ad hoc Panel. The notification shall be accompanied by a statement of the claim and the grounds on which it is based. The Secretary shall promptly transmit a copy of the notification to all Contracting Parties.

3. Where another Contracting Party wishes to become Party to a dispute, it may join the process of constituting a Panel, unless the original Parties to the dispute disagree.

4. No sooner than two weeks, and no later than four weeks after the notification referred to in paragraph 2, the Parties to the dispute shall notify the Secretary of the constitution of the Panel, including the names of the Panellists and the time schedule for its work. Unless the Parties agree otherwise, the following shall apply: the Panel shall consist of three members; the Parties to the dispute shall each select one Panellist and agree on the third Panellist; the third Panellist shall chair the Panel; the third Panellist shall not be a national of either Party and shall not be of the same nationality as either of the first two Panellist in case of a dispute between more than two Contracting Parties, Parties of the same interest shall select one Panellist jointly the Secretary shall promptly transmit a copy of the notification to all Contracting Parties

3.4.4.1 Panel comment

The development of a dispute settlement mechanism is to be welcomed as an important element in the modernisation of the NEAFC Convention and will hopefully be used by the Contracting Parties to achieve the resolution of outstanding elements of disagreement that hamper NEAFC's conservation and management roles.

3.5 Co-operation

3.5.1 Transparency

Extent to which NEAFC is operating in accordance with the transparency provisions of Article 12 of UNFA

Decision making processes are described in broad terms in the introductory section of this report and in detail in Section 3.4 above. Transparency in these processes relates to accessibility to information and decision making processes for Contracting Parties and observers. These are discussed separately below.

In general terms NEAFC makes information available to Contracting Parties, observers and the public in the following way:

- Reports and decisions are made available on the NEAFC website. Prior to Annual Meetings, documents and reports which are to be presented to the Commission are placed in a protected area of the website to which only Contracting Parties have access. Once the documents have been tabled at Annual and Extraordinary Meetings of the Commission they are in the public domain and become available for scrutiny on the public part of the website
- NEAFC readily responds to requests for information from the public and academia. The Secretariat is also generally available to review text about NEAFC with respect to factual information
- The NEAFC Secretariat regularly participates in conferences and meetings on ocean matters or is asked to contribute with lectures (Appendix X). This has raised NEAFC's public profile. Reports from each event are provided to Contracting Parties

3.5.1.1 Contracting Parties

Contracting Parties are involved in all internal NEAFC processes, in particular the decision making processes followed at Annual Meetings of the Commission. They also have access to appropriate information. Issues relating to transparency do however arise for Contracting Parties in relation to

5. Any Contracting Party, which is not a Party to the dispute, may attend all hearings of the Panel, make written and oral submissions to the Panel and receive the submissions of each Party to the dispute.

6. At the request of a Party to the dispute, or on its own initiative, the Panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties to the dispute so agree.

7. Unless the Parties to the dispute otherwise agree, the Panel shall, within 3 months from the constitution of the Panel, make its report. The report shall be confined to the subject matter of the dispute and state the reasons on which it is based. The report shall be communicated promptly, through the Secretary, to all Contracting Parties.

8. The Panel shall aim at reaching a consensus in its conclusions. If this is not possible the Panel shall reach its conclusions by a majority of its members, who may not abstain from voting.

9. The Panel may adopt any rules of procedure which it deems necessary to accelerate the proceedings.

10. Costs of the Panel shall be borne by the Parties to the dispute in equal parts. The level of fees and remunerations of Panellists on the list established according to paragraph 1 shall be decided by the Commission at the Annual Meetings.

processes not controlled by NEAFC that have a major bearing on the management of NEAFC fisheries. In particular the scientific review processes adopted by ICES and the various Coastal State negotiations on access to Convention Area fisheries fall into this category. Comments on ICES scientific review processes are provided above. Coastal State allocation discussions are often not open to all Contracting Parties or observers.

3.5.1.2 Observers

Relevant International Governmental Organisations have been accepted as observers to meetings of NEAFC since the 1982 Convention entered into force. NEAFC also appoints observers to other regional fisheries bodies, including NAFO, NAMMCO, the Bering Sea Arrangement, SEAFO and ICES. Reports from these observers are tabled at each Annual Meeting of the Commission.

In 2001 the Commission adopted a change in the Rules of Procedure, which allowed Non-Governmental Organisations to participate in NEAFC meetings.²⁵ In 2005 some NGOs requested NEAFC to change the Rules of Procedure to enhance NEAFC's transparency by granting observers access to meeting documents prior to meetings and of the Commission and of the various Committees and Working Groups. The Commission declined the request concluding that the current arrangements were satisfactory.

3.5.1.3 Panel comment

The Panel notes the steps already taken to improve the transparency of information and decisions within NEAFC but nonetheless considers that some improvements could be made. In particular the following issues deserve attention:

- *More transparency should be provided for meetings between Coastal States on allocation issues*
- *Further consideration should be given to providing documents to NGOs prior to Commission meetings.*

The Panel could see no specific reasons to restrict NGO access to information prior to Commission Meetings, except in special circumstances of confidentiality etc., and considered that in most instances provision of such information would help inform debate rather than detract from it.

The Panel also considered that the development of an annual report on the status of Convention Area stocks would help improve overall transparency.

²⁵ Chapter 8 – Rules Granting Observer Status³

33. The Secretary shall invite:

(a) inter-governmental organisations that have regular contacts with NEAFC as regards fisheries matters or whose work is of interest to NEAFC or vice versa.

(b) NCPs identified as harvesting fishery resources in the area beyond waters under the fisheries jurisdiction of Contracting Parties (the Regulatory Area).

34. All non-governmental organisations (NGOs) which support the objectives of the Convention, who have demonstrated interest in the species under the purview of NEAFC, and are in good standing, should be eligible to participate as an observers in all plenary meetings of the Commission, except meetings held in executive sessions or meetings of Heads of Delegations.

(a) attend meetings, as set forth above, but may not vote.

³ Amended at the 20th Annual Meeting, 2001

3.5.2 Participatory rights of newcomers

Extent to which NEAFC determines participatory rights of new members in accordance with Article 11 of UNFA

In 2003 the NEAFC Commission adopted ‘Guidelines for the Expectation of States considering applying for Membership of NEAFC and Possible Fishing Opportunities in the NEAFC Regulatory Area.’ (Appendix XI).

At present, all resources in the NEAFC Regulatory Area are fully exploited. There is a small co-operative quota in the redfish fishery (166 tonnes in 2006). There has been a co-operative quota for mackerel in previous years.

There have been three applications for Contracting Party status since 1982. Ukraine applied in 1996; the application was put to a vote according to Article 19 of the Convention without comments. The application did not receive the necessary votes to be carried. Estonia applied in 2002 and the application was carried. Lithuania applied in 2004, however that application was not carried. Some Contracting Parties felt that, due to the Lithuanian track record (Lithuanian vessels were involved in significant IUU fishing for redfish before joining the EU), it was not possible to support their application.

3.5.2.1 Panel comment

The Panel acknowledges the difficulties that NEAFC faces when determining participatory rights of new comers in fisheries already fully, or over-exploited and considers the processes established and followed to be appropriate.

3.5.3 Relationship with co-operating NCPs

Extent to which NEAFC grants co-operative NCP status in accordance with the NCP Scheme

Rules for obtaining co-operating NCP status were laid out in the amendments to the Scheme in 2004. Before that Japan, Canada and New Zealand had been granted NCP status without any definite procedure.

The rules are detailed in Appendix XII.

Since the amendments to the NCP Scheme came into force, one country has applied for co-operative NCP status. Belize applied before the Annual Meeting in November 2005; the application was found to be formally in order by PECCOE. It was received favourably, but doubts were raised with respect to the control Belize authorities exert over their vessels. The Belize authorities were not able to provide adequate explanations. Discussions on the application were therefore suspended pending the submission of more information by Belize authorities.

In 2006 the authorities of the Cook Islands applied for co-operative NCP status. This application had been scrutinised by PECCOE and found to conform with NEAFC requirements.

Both applications will be decided at the 25th Annual Meeting of the NEAFC Commission in November 2006

3.5.3.1 Panel comment

The Panel considers that NEAFC has transparent and appropriate rules for entry to being allocated co-operating NCP status and that these rules have been applied accordingly.

The Panel considers that further obligations may be put on co-operating NCPs, for example to have them apply restrictions to IUU vessels in a way comparable to those obligations applied by Contracting Parties.

3.5.4 Relationship to other NCPs

Extent of fishing activity by NCP vessels, which are not co-operating with NEAFC and measures to deter such activity

The 'B' list on the NEAFC website contains a full case history for each vessel on the list. The overall list represents the extent of the problem of IUU fishing by NCP vessels.

Between 2001 and 2006, the NEAFC President wrote to ten different countries,²⁶ some on multiple occasions, pointing out that their vessels have undermined NEAFC regulatory measures. In some instances these letters were backed by diplomatic demarches. All the countries involved have been invited to the 25th Annual Meeting in November 2006 as observers.

Tightening measures against vessels on NEAFC's IUU lists has had a distinct effect. There remain a number of vessels still being detained in the ports of NEAFC's Contracting Parties. In 2006 a rule prohibiting the entry of any vessel on the 'B' list into NEAFC ports further exacerbated the consequences for IUU vessels.

During April 2006 there was a lot of media interest in redfish fisheries in the Irminger Sea and this led to information being received from vessels legally fishing the fishing grounds. This information was acted on and Contracting Parties have been very active in monitoring the movements of individual vessels, collecting information on vessels and contacting authorities in countries which are not Contracting Parties to NEAFC.

3.5.5 Panel comment

The Panel acknowledges the progress being made in addressing fishing activities by non-contracting and non co-operating parties.

3.6 NEAFC in a Regional and International Context

NEAFC's Contracting Parties participate as States or REIOs (Regional Economic Integration Organisations), or in international processes, both at a regional and global level. In some instances they co-operate through NEAFC. Since the establishment of the Permanent Secretariat the Contracting Parties have encouraged co-operation on a Secretariat level and have received reports from the Secretariat in this respect; these reports are tabled at the Annual Meetings of NEAFC. NEAFC has reciprocal observer status with a number of RFMOs. The NEAFC Secretariat also engages in a range of international project initiatives.²⁷

²⁶ Belize, Cambodia, Cook Islands, Dominica, Estonia, Georgia, Honduras, Lithuania, Panama, Togo.

²⁷ For example, the Secretariat participated in the now concluded EU JCR funded IMPAST project aimed at demonstrating the practical use of satellite based remote sensing imagery for compliance monitoring of fishing vessel positioning (VMS) reports. The NEAFC Secretariat is also a partner in the EU JCR funded SHEEL project (Secure and Harmonised European Electronic Logbooks) aiming at developing and demonstrating an operational, cost-

3.6.1 Panel comment

The Panel acknowledges the active role NEAFC and its Secretariat has played in global and regional co-operation. The panel recommends this should co-operation should continue and that NEAFC should get involved in future co-operation at this level as the opportunity arise.

3.6.2 Co-operation with other RFMOs

Including co-operation in the network of Regional Fishery Body Secretariats

NEAFC co-operates with RFMOs at four different levels:

- NEAFC co-ordinates bilaterally with the Northwest Atlantic Fisheries Organisation (NAFO) and the South East Atlantic Fisheries Organisation (SEAFO)
- NEAFC coordinates with other RFMOs within the North Atlantic through meetings under North Atlantic Fisheries Regional Fisheries Organisations (NARFMOs)
- NEAFC co-ordinates with all international RFMOs at a world wide level directly through its membership in the Regional Fishery Bodies Secretariats Network
- NEAFC participates in several Un initiatives (see further discussion in Section 3.6.2.4 below)

3.6.2.1 Bilateral RFMO co-operation

NEAFC and NAFO, who are ‘neighbours’ in the North Atlantic, have responsibility for the management of pelagic and demersal stocks that straddle waters under national jurisdiction and waters that are under the jurisdiction of both RFMOs. This places an even greater requirement on these RFMOs to maintain effective co-operation than in many other RFMO arrangements.

The two RFMOs jointly co-operate in the management of pelagic redfish in the Irminger Sea, which straddles the NEAFC and NAFO Convention Areas. The NEAFC and the Fisheries Commission of NAFO have accepted a management process in which NEAFC receives the scientific advice and establishes overall management measures, including the allocation of a portion of the overall TAC to the NAFO area. Catches are reported to both Commissions for control purposes. This process was established in 2002.

The two RFMOs have initiated several North Atlantic initiatives (see below).

The NEAFC Secretariat has also supported SEAFO in its efforts to establish a permanent secretariat for the SEAFO Convention in the South East Atlantic. The NEAFC Secretariat is provisionally hosting SEAFO’s VMS database. A Memorandum of Understanding between the two RFMOs is being considered at present.

effective and secure electronic transfer system. In addition, the deployment of a viable electronic logbook Europe-wide will also improve resource management. In taking on the electronic log, scientists, as well as inspectors, will broaden the area of interest from the almost exclusively monitoring and control focus of VMS, to resource management. The project will complete in 2006. The EU JCR funded CEDER project, which aims at estimating catches, effort and discards in real time was started in January 2006. The NEAFC Secretariat is a partner in the project.

3.6.2.2 North Atlantic RFMO co-operation

RFMOs in the North Atlantic²⁸ have met every year since 2001.

Together with NAFO, NEAFC has played an important role in developing and acting as a custodian of the North Atlantic Format. There is a simple reporting format for VSM data, vessel positions, catch and surveillance data. NEAFC established an Advisory Group on Data Communication which looks after the format. The Group is open to all Regional Fisheries Bodies.

At a later stage the format may become an international standard but, for the time being, the users prefer to maintain flexibility while experience is building up.

NEAFC runs a website for the NAF format, allowing users to report their message codes to the common format. Significant amount of codes are shared, but each managing authority also has specific codes for particular uses.

3.6.2.3 Worldwide co-operation

Regional Fisheries Bodies throughout the world have met biennially since 1999 as the Regional Fishery Bodies Secretariats Network. These meetings are supplemented by the separate Secretariats keeping in touch electronically on a number of issues and co-operating with respect to abating IUU fishing.

3.6.2.4 RFMO co-operation in the UN

The NEAFC Secretariat, in its own right and sometimes on behalf of other RFMO Secretariats, has participated in a range of UN initiatives designed to support fisheries management *per se* and the RFMO framework in particular. These engagements have included participation in policy-making bodies, such as the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea and, as an observer since 2001, the FAO Committee on Fisheries meetings.

The NEAFC Secretariat also supports a range of more operational activities initiated by FAO to support RFMO activities as follows:

- In 2006 NEAFC became a partner of the Co-ordinating Working Party (CWP) and the FAO's fisheries statistics body. ICES, the provider of scientific advice to NEAFC, is responsible for reporting under the FAO STATLANT system
- NEAFC is in the process of finalising a partnership agreement with the Fisheries Resources Monitoring System (FIRMS), which pools information gathered from various regional fisheries Bodies, FAO and other agencies into a comprehensive, authoritative, one-stop source of information on world fisheries and fishery resources. This new database was officially launched at the UNFA Review Conference in May 2006 in New York. Currently ten organizations have signed the partnership agreement and are contributing data to FIRMS, including FAO, which also has the co-ordinating role
- NEAFC also responds to regular questionnaires from FAO about progress with respect to the Code of Conduct and International Plans of Action (IPOAs) and, more generally, has answered questionnaires from UNDOALOS in preparation for reports

²⁸ IBSFC, ICCAT, NAFO, NAMMCO, NASCO, NEAFC,

by the UN Secretary-General to the UN General Assembly on sustainable fisheries and oceans and law of the sea matters

3.6.3 Co-operation with other international and regional organizations

Including the OSPAR Commission for the Protection of the Marine Environment in the North East Atlantic

In addition to engagements with other RFMOs, either directly or indirectly through the activities of the UN, NEAFC maintains co-operative relationships with a range of other international and regional organisations to support its fisheries management activities. These can usefully be categorised as *ad hoc* co-operation as well as more resource intensive, ongoing co-operation.

3.6.3.1 Ad hoc co-operation

The most notable ad hoc engagements include the following:

- Secretariat contact with the International Maritime Organisation (IMO) on matters of common interest such as IUU fishing, port control, flags of convenience and the IMO system of PSSAs (Particular Sensitive Sea Areas)
- The Secretariat participates in Overseas Economic Community Development initiatives in fisheries, such as the international workshop on IUU Fisheries in April 2004
- Contact is maintained with the Nordic Council of Ministers through the Council's secretariat. Support on fisheries issues is provided as required

3.6.3.2 Ongoing co-operation (OSPAR)

NEAFC is committed to more resource intensive co-operative initiatives with a range of other international and regional organisations. Particular attention is given below to two key organisations which have important links to the management of fisheries resources in the Convention Area (the OSPAR Commission and ICES).

The OSPAR Commission was established to manage the work underpinning the Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 (the OSPAR Convention). The Commission is made up of representatives of the governments of 15 Contracting Parties and the European Commission, representing the EC.²⁹

The Contracting Parties of the OSPAR Convention have agreed 'to take all possible steps to prevent and eliminate pollution and to take the necessary measures to protect the maritime area against adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected'. This Convention has considerable importance in guiding international co-operation and protection in the North Atlantic and has potential overlaps with the fisheries management responsibilities of NEAFC.

As early as October 2002 discussions were held between the Secretariat of the OSPAR Commission and NEAFC on the possibility of co-operating and maintaining effective lines of communication. At the Extraordinary Meeting of NEAFC in May 2003 it was decided that contacts between NEAFC and

²⁹ www.ospar.org

OSPAR should be maintained at the Secretariat level. Accordingly OSPAR was invited to send observers to NEAFC meetings and it was agreed that the Secretary should, if NEAFC was invited, act as an observer at relevant OSPAR meetings.

So far, as an organisation, NEAFC has decided not to discuss areas of collaboration. Instead the views of NEAFC's Contracting Parties will be handled directly and individually with OSPAR. Discussions between the Secretariats on future arrangements for the two organisations remain ongoing.

3.6.3.3 Panel comment

The Panel considers future collaboration between the OSPAR Commission and NEAFC to be important given the potential overlaps in resource management responsibility. This is particularly so given the concerns raised earlier over the development of deep-sea fisheries.

3.6.3.4 Ongoing co-operation ICES

The NEAFC Secretariat meets with the ICES Secretariat once a year together with other Client Commissions of ICES and engages opportunistically in the various ICES forums.³⁰

3.6.3.5 Panel comment

The Panel acknowledges the importance of maintaining ongoing co-ordination between NEAFC and ICES and, in particular, improving access to the scientific processes underpinning ICES advice on Convention Area fisheries (see Section 2.5 above).

³⁰ For example, the 13th ICES Dialogue Meeting held on 26-27 April 2004 in Dublin Ireland and the ICES Symposium in Galway, 27 to 30 June 2006

4 Conclusions

4.1 Consistency of the NEAFC Convention with the UNFA and other relevant international instruments

The Panel considers that the NEAFC Convention, including its recent amendments, and the documents adopted to deal with specific issues, such as the NCP Scheme, the Scheme of Control and Enforcement and ‘Guidelines for the expectation of future new Contracting Parties with regard to fishing opportunities in the NEAFC Regulatory Area’ generally implement the global instruments dealing with fisheries issues, in particular the UN Fish Stocks Agreement, the FAO Compliance Agreement and the FAO Code of Conduct. In this regard the Panel noted that NEAFC is a regional framework Convention and as such its provisions do not fully reflect the details and broad range of issues covered by global regimes, because of the regional specificities of the NEAFC Convention Area and also because by referring to these instruments in its preamble, it can be assumed that the context within which the general provisions of the NEAFC Convention are implemented are set out in such global instruments. The recommendations put forward by the Panel aim at improved implementation by NEAFC in the context of these global commitments. In particular it should be noted that the Panel recommendations generally implement the recommendations agreed upon by the Review Conference on the UN Fish Stocks Agreement in May 2006.³¹

4.2 Conservation and management of fishery resources

The Panel has concluded that while knowledge regarding pelagic redfish as well as deep-sea species is lacking, the information base and assessments of the pelagic species are reasonably good.

Sustainable management of pelagic redfish continues to be problematic and resolution is seen as a high priority for NEAFC and its Contracting Parties. Improvements are needed in addressing the stock structure issue in a precautionary manner, even in the face of scientific uncertainty and lack of consensus.

While it is positive that management plans that are in compliance with the Precautionary Approach are in place for the pelagic stocks, NEAFC’s ability to manage them in its Regulatory Area is, at present, dependent upon Coastal States’ ability to reach agreements. Coastal State agreements are only in place for blue whiting and mackerel. For the past four years there has been lack of agreement regarding herring.

The Panel concluded that the inability of Coastal States to reach allocation agreements severely hampers the potential effectiveness of NEAFC regarding management within its Regulatory Area and steps should be taken to address this. Further, the lack of transparency in development of Coastal State agreements is of concern and should be addressed by NEAFC and its Contracting Parties. When developed, recommendations should be clear and unambiguous as well as consistent in format across species. With respect to the four main fisheries, ICES has only noted ecological concerns with regard to herring. NEAFC currently considers that due to the ‘clean’ nature of these fisheries, there are little to no ecological concerns. This should be confirmed through a specific review by ICES.

³¹ See footnote 5.

NEAFC is beginning to address the issue of ghost fishing from lost nets in deep-sea areas through its Working Group on Deep Sea Species. It is also beginning to address more environmental/ecological issues through its application of closed areas, moratoria on shark fishing, the ban on the use of gillnets in depths beyond 200 metres and the development of procedures for closing new areas. These are positive strategies in the face of uncertainty but it is not possible to evaluate whether they are adequate. It is important that NEAFC determines the specific objectives it is trying to achieve with the different measures so it can develop a comprehensive strategy of protection that includes these objectives as well as approaches and measures of success.

The Panel was frustrated at the lack of focus and information available on economic and social benefits. The Panel was unable to make an assessment of the performance of NEAFC in terms of meeting the Convention objective of optimal utilisation for this reason.

4.3 Monitoring, control and enforcement

As regards control mechanisms, NEAFC has developed a sophisticated system that makes use of modern technologies. This has taken time to put into place and there remain problems with quality control. However, the main criticism is that the means available to NEAFC are not utilized to the full. In addition, regarding traditional means of inspection and surveillance, all Contracting Parties do not contribute in a manner fitting their fishing presence.

The increasing importance of IUU fishing activities in the Regulatory Area has become a serious challenge for NEAFC in recent years. From 2004 onwards NEAFC has moved swiftly and decisively to adopt a number of measures to address the problem: IUU vessel lists, prohibition of landings, closure to ports and other Port State control provisions. Practical experience has demonstrated the need to adapt theoretical models to real life situations. In pursuing its objectives NEAFC has gone beyond the guidelines in the IPOA-IUU developed by the FAO. Similarly the proposed measures for Port State control are more comprehensive than those contained in the FAO model scheme.

4.4 Decision making and dispute settlement procedures

The development of dispute settlement mechanisms is to be welcomed as an important element in the modernization of the NEAFC Convention. The Panel hopes that such developments will facilitate the resolution within NEAFC of pending issues, such as the allocation and TAC arrangements for stock for which agreement has yet been reached.

4.5 Co-operation

Progress is being made in improving the transparency of information flow and decision making processes within NEAFC. Areas of particular concern which are in need of improvement for Contracting Parties are the ICES scientific review process and negotiations between participating Coastal States on quota allocations and management measures for specific Convention Area fisheries which are held prior to NEAFC's Annual Meeting.

4.6 NEAFC in a regional and international context

NEAFC's Contracting Parties participate as states, or through the EU, in processes and discussions of ocean management. In some instances they also co-operate through NEAFC. Since the establishment of the Permanent Secretariat the Contracting Parties have encouraged co-operation at Secretariat level. NEAFC has reciprocal observer status with a number of RFMOs.

The Panel is impressed with the high level of engagement that NEAFC, through its Secretariat, has with other RFMOs and international organisations and with the leadership role it is taking. The only area identified for potential improvement, given the potential overlap in resource management goals and responsibilities, was with the relationship and future links between NEAFC and OSPAR.

4.7 General

Many of the concerns about the performance of NEAFC raised above are difficult to lay at the door of NEAFC *per se* as this organisation is only what the Contracting Parties make it. We found that NEAFC itself, given the constraints placed upon it, has taken many positive initiatives, and in some areas (i.e. vessel monitoring) NEAFC leads the world in implementing the management arrangements that it has been given authority to engage in. The organisation itself has much unutilised capability.

Our over all suggestion is for the Contracting Parties to develop a more transparent process in setting objectives for the management of fisheries within the Convention Area and to seriously, and actively, consider ways to provide NEAFC with greater authority in this, as well as in the consequential processes of allocating and administering access rights and determining the tools and services (e.g. regulation, research, monitoring and enforcement) which are needed for effective management.

We believe that a positive step in this direction will be for NEAFC to develop an annual fisheries status report which encompasses not just biological factors for the fish stocks concerned but also social, environmental and economic performance. Implicit in such an approach is the need to establish common objectives, or performance targets, both socio-economic and biological which, although contentious, will help pave the way for identifying longer term allocation and management measures. A more comprehensive and active information collection and analytical capacity will be needed to underpin such work. Importantly, given the commercial nature of many of NEAFC's fisheries, this approach also has considerable potential to draw together and strengthen industry ties across jurisdictions and ultimately align their collective fishing interests with the Convention and, by association, Contracting Party objectives.

Realigning management of NEAFC fisheries away from a process that is input driven (stemming primarily from annual Coastal State negotiations) to one founded on common and multi-year outcomes and aligned incentives, will not be easy. Nonetheless we believe that such an approach is worth pursuing and offers, perhaps, the best strategy for future progress.

5 References

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6 Appendix I: Reported deep - sea fishing activity and species taken as reviewed by ICES.

COUNTRY	2003	2004	SOURCE AND COMMENTS
Norway	12 vessels (longliners), 292 fishing days. Total catch: 901 t, of which 31 t on mid-Atlantic Ridge taken by 4 vessels.	4 vessels (longliners), 172 fishing days. Total catch: 409 t, of which 8 t on mid-Atlantic Ridge taken by 1 vessel.	Norwegian Directorate of Fisheries. Catches also include redfish and Greenland halibut.
Russia	2 trawlers, 55 fishing days. Total catch: 573 t, of which 537 t on Mid-Atlantic Ridge taken by 1 vessel.	2 trawlers and 2 longliners, 116 fishing days. Total catch: 853 t, of which 414 t on Mid-Atlantic Ridge taken by 1 vessel.	VNIRO, PINRO
Spain	Hatton Bank only, 26 trawlers, 1500 fishing days	On mid-Atl. Ridge: 1 Vessel (Bottom longliner). 54 fishing days. Total Catch 80 t. On Hatton Bank: 26 trawlers, 1500 days	Catches also include redfish. Hatton Bank landings given in present report.
Faroe Islands	No fishing activity this year	1 trawler, 82 fishing days. Total catch 653 t	Ministry of Fisheries and Foreign Affairs. Catches include deep-sea species only.
France	Fishing activity in international waters resulted in catches of 619 t of roundnose grenadier, 210 tonnes of blue ling 45 tonnes of orange roughy and 24 tonnes of black scabbard fish. These represent 11, 7, 11 and 1 % of the total national catches of these species.	Although preliminary catch data per ICES sub-areas and division where available, detailed catch per rectangles was not updated and did not allow to allocated catches to EEZ and international waters.	Logbook data
Ireland	1 longliner (13 Days at sea), 2 trawlers (65 days at sea) in Area XII . Total Catch: 145t	1 trawler (38 days at sea) in Area X. Total Catch: 34t.	Irish Department of the Marine logbook data.
Iceland	18 tonnes (XIV), 1 vessel, in May. Catch: Redfish, tusk, roundnose grenadier, smoothheads, sharks and Greenland halibut.	No fishery for deep-sea species.	Icelandic Directorate of fisheries
Portugal	2 vessels (both using longlines and bottom gillnet) with deep-sea licences are operating in subareas VI, VII, XII and XIV. 330 days of fishing days per vessel. Total landing of the two vessels: 864 tonnes	2 vessels (both using longlines and bottom gillnet) with deep-sea licences are operating in subareas VI, VII, XII and XIV. 330 days of fishing days per vessel. Total landing of the two vessels: 912 tonnes	Portuguese Directorate of Fisheries

United Kingdom (E&W)	Negligible	Negligible	DEFRA
Others	No data received	No data received	

Species	ICES Subarea/division	Assessment type and final year of data	Salient features Indicators of stock status	Concerns / comments
Ling (<i>Molva molva</i>)	Ila,IVa,V,VI and VII	Catch curves in late 90s. Preliminary age-based assessment for Vb. Trends in CPUEs. 2003.	Average Z very high in late 90s. Survey indices declining in Va. Commercial CPUEs in other areas.	Continued limited provision of data from some major fisheries. Length and age data series still inadequate for analytical assessments.
Blue ling (<i>Molva dypterygia</i>)	I-XII and XIV	Indicative holistic assessment for V, VI & VII based on CPUE data. 2003	Strong decline in CPUE. CPUEs probably not reliable as stock indicators due to fishing on aggregations.	Fishing on spawning concentrations implies that CPUE trend may underestimate the stock trends and should be treated with caution.
Tusk (Brosme brosme)	Ila,IVa,V,VI	Catch curves in late 90s and trends in CPUEs: CPUE series truncated in mid-1990s. 2003	Historical CPUE data show strong decline over the past decade in most areas. Trends in most recent years uncertain	Length and age data series still inadequate for analytical assessment.
Greater Silver Smelt (<i>Argentina silus</i>)	Mainly Ila,III,V,VI,VII	No recent assessment 2003	Available CPUEs from IIIa and Vb not indicative of stock development	Decline in landings in recent years has been observed for all ICES divisions, except Div. Ila
Orange Roughy (<i>Hoplostethus atlanticus</i>)	Mainly VI, VII, X and XII	No assessments. CPUE data only. 2003	Strong fluctuations in CPUE. Due to the aggregational behaviour of this species CPUEs are not readily indicative of stock density.	The fluctuations in CPUE may reflect both fluctuations in fish density on successively exploited aggregations. Recent high landings in VII are unlikely to sustainable
Roundnose Grenadier (<i>Coryphaenoides rupestris</i>)	IIIa,V, VI VII and XII. Data mainly from V,VI & VII	Preliminary age-based assessment for stock in V,VI & VII indicates declining stock. Preliminary acoustic assessment for XII. 2003	No clear trends in CPUEs for IIIa, V, VI, VII. Russian CPUEs for XII & XIV, 1975-2003, declining	Requirement for age data. Number of large fish declining. Discard data should be collected. Full review of data for area XII and X needed. Mis-reporting suspected in XII (Hatton Bank).

Black Scabbardfish (<i>Aphanopus carbo</i>)	Mainly V, VI, VII, VIII and IX	ASPIC model. CPUE data	Consistent decline in CPUE in V, VI and VII, but increase in 2002 for VI and VII. CPUE in IXa stable	Stock structure unknown Information on reproductive tactics and dynamics is needed
Golden Eye Perch (<i>Beryx splendens</i>)	Mainly X	No assessment because of lack of satisfactory data 2003		Concern about sequential depletion an underreporting from international waters
Red (blackspot) Seabream (<i>Pagellus blennoides</i>)	Mainly X and IX. Residual in VI, VII, VIII	No assessment because of lack of satisfactory data 2003		Stock structure unknown Information on reproductive tactics and dynamics is needed
Greater forkbeard (<i>Phycis blennoides</i>)	All areas but mainly VI, VII VIII and IX	No assessment Because of lack of satisfactory data 2003	CPUE data not used because landings statistics may include landings of Morids and concerns about bycatch species	Mainly bycatch
Deep-sea sharks mainly Centroscymnus coelolepis and Centrophorus squamosus	Entire ICES area	CPUE trends only	All available CPUE data show declines. Stocks depleted	Declines in CPUE more pronounced in the northern area. This is where most of the catch comes from
Kitefin shark Dalatias licha	Mainly X	Production model	Stock depleted	No longer a target fishery. Bycatches possible in other fisheries

7 Appendix II: Management history for pelagic redfish ('000 t).

Advice Year	ICES Advice	Total TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	<41	N/A	N/A			62	No allocation. Russia & Iceland not concur and set own unilateral TAC.
2005	41	N/A	N/A			80	Considerable disagreements continued at Annual Meeting re single/double stock idea as well as harvest strategy & level. NEAFC & coastal States waiting for resolution within ICES before acting. No allocation
2004	120	N/A	N/A		124	120	Disagreements at Annual Meeting re single/double stock idea as well as harvest strategy & level. NEAFC & coastal States waiting for resolution within ICES before acting
2003	119	N/A	N/A		131	119	Debate within NEAFC with regard to single component with single TAC or separate components that should have separate TAC's
2002	<85	N/A	N/A		135	95,000 t proposed but not agreed	discussion of science including presentation of data not examined by ICES
2001	<85	N/A	N/A		129	No measures put in place during 2000 Annual Meeting	discussions of the science including the different perspectives re stock structure
2000	85	N/A	N/A		126	120	scientific presentations & discussions
1999	150	N/A	N/A		110	153	scientific presentations & discussions. Russia file objection.
1998	<150	N/A	N/A		117	153	Apparent lack of cooperation from fishermen in providing data both related to catches as well as depths taken. Objections filed by Russia & Poland to NEAFC decision
1997	-	N/A	N/A		123	153-158	156 without objections, but 153 if objections filed. Objections filed by Russia & Poland to NEAFC decision
1996	-	N/A	N/A		180	153	WG Report considered
1995	100	N/A	N/A		176	Nil	WG Report considered. Agreed to look at setting of TAC at next meeting
1994	100	N/A	N/A		149	Nil	No agreement reached regarding management but Working Group on Oceanic Redfish established during 1993 meeting
1993	50	N/A	N/A		116	Nil	TAC should not exceed 10% of SSB but no TAC due to uncertainty in scientific data
1992	no expansion	N/A	N/A		66	Nil	In absence of analytical assessment, there was no support, within NEAFC, for a TAC
1991	66	N/A	N/A		27	Nil	Based on information from ICEAS, NEAFC considered stock to be straddling rather than just international but no agreement reached on allocations between zones

8 Appendix III: Management history for blue whiting ('000 t).

Advice Year	ICES Advice	Total TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	1,500					not agreed during 2005 Annual Meeting	Coastal States close to agreement with $F=0.32$ as per ICES recommendation
2005	1,075					not agreed during 2004 Annual Meeting	no agreement between Coastal States
2004	925				2378	not agreed during 2003 Annual Meeting	no agreement between Coastal States
2003	600				2321	not agreed during 2002 Annual Meeting	no agreement between Coastal States
2002	rebuilding plan				1556	Roll-over of unallocated precautionary TAC of 650	no Coastal State agreement. Extraordinary Meeting of NEAFC scheduled for Jan. 2001
2001	628				1780	No measures put in place during 2000 Annual Meeting	Rolled over TAC in absence of any other agreements
2000	800				1412	Roll-over of unallocated precautionary TAC of 650	Coastal State meeting had not occurred at time of Annual Meeting
1999	650				1256	Roll-over of unallocated precautionary TAC of 650	scientific presentations & discussions. Russia file objection.
1998	650				1125	Roll-over of unallocated precautionary TAC of 650	Need for management in NEAFC Regulatory Area
1997	540				672	Roll-over of unallocated precautionary TAC of 650	no other commentary provided in 1996 Report
1996	500				646	Roll-over of unallocated precautionary TAC of 650	no other commentary provided in 1995 Report
1995	518				579	Unallocated precautionary TAC of 650	Discussions regarding TAC at 1995 Annual Meeting should take UNFSA into consideration
1994	485				459	Unallocated precautionary TAC of 650	TAC set to ensure viable fishery and that SSB not fall below 1991 level
1993	490				481	Unallocated precautionary TAC of 650	TAC set to ensure viable fishery and that SSB not fall below 1991 level
1992	no advice				475	Unallocated precautionary TAC of 650	TAC set to ensure viable fishery and that SSB not fall below 1991 level
1991	670				370	No decision	Report of ad-hoc Working Group discussed but no decisions taken

9 Appendix IV: Management history for Norwegian spring spawning herring ('000 t).

Advice Year	ICES Advice	Total TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	732					not agreed during 2005 Annual Meeting	Coastal State agreement at 732,000 t but details still being discussed. If follow ICES advice, is no excess for NEAFC allocation.
2005	890					not agreed during 2004 Annual Meeting but hopeful for later allocations	Eventual TAC set at 1,000,000 t
2004	825				794	not agreed during 2003 Annual Meeting	no Coastal State Agreement
2003	710				773	not agreed during 2002 Annual Meeting	no Coastal State Agreement
2002	853				809	76.5 in NEAFC Regulatory Area and 850 total	Coastal States reached agreement prior to NEAFC 2001 Annual Meeting
2001	753				770	No measures put in place during 2000 Annual Meeting	Coastal States reached agreement prior to NEAFC 2001 Annual Meeting with a 32% reduction in allocations across the board
2000	Max 1,500				1207	102 in NEAFC Regulatory Area for total of 1,250	Coastal States reached agreement prior to NEAFC 1999 Annual Meeting
1999	1,263				1,235	102 in NEAFC Regulatory Area for total of 1,300	scientific presentations & discussions. Russia file objection.
1998	don't exceed Harvest Control Rule				1223	102 in NEAFC Regulatory Area for total of 1,300	Roll-over of agreement made at Extraordinary Meeting in March 1997
1997	keep SSB >2.5 million t				1420	not agreed	Discussions continued without agreement on TAC. Agreement on weekly reporting system.
1996	keep SSB >2.5 million t				1217	not agreed	Discussions continued without agreement on TAC. Agreement on weekly reporting system.
1995	513				906	not agreed	Stock appearing in international waters for first time in many years
1994	334				479	N/A	Norway congratulated for following ICES advice
1993	119				232	N/A	Appeal to Norway to adhere to ICES advice
1992	no fishing				104	N/A	Appeal to Norway to adhere to ICES advice
1991	no fishing				85	N/A	Appeal to Norway to adhere to ICES advice

10 Appendix V: Management history for Northeast Atlantic mackerel ('000 t).

Advice Year	ICES Advice	Total TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	373-487					42 for NEAFC Regulatory Area & 374 total	Coastal State Agreement at 373,535 t for total TAC of 415,824 t corresponding to Fpa
2005	320-420					40 for NEAFC Regulatory Area & 395 total	Coastal State agreement of 355. Iceland and Russia opposed to NEAFC decision
2004	545			559	611	52 for NEAFC Regulatory Area & 559 total	Coastal State agreement of 461. Iceland and Russia opposed to NEAFC decision
2003	542			580	617	57 for NEAFC Regulatory Area & 580 total	Coastal State agreement of 500
2002	694			688	727	66 for NEAFC Regulatory Area & 688 total	Coastal State agreement of 587
2001	665			620	687	No measures put in place during 2000 Annual Meeting	Coastal State agreement of 574
2000	642			579	675	44 for NEAFC Regulatory Area & 579 total	Coastal State agreement of 560
1999	437			595	616	595	scientific presentations & discussions. Russia file objection.
1998	498			647	667	N/A	Need for management in NEAFC Regulatory Area. Working Group on Mackerel and Blue Whiting established
1997	given by component			434	570	N/A	No Discussion although was discussion of general issues concerning fisheries in NEAFC Regulatory Area
1996	given by component			493	564	N/A	Not mentioned in 1995 Annual Report
1995	given by component			660	756	N/A	Not mentioned in 1994 Annual Report
1994	given by component			792	821	N/A	Not mentioned in 1993 Annual Report
1993	given by component			778	825	N/A	Not mentioned in 1992 Annual Report
1992	given by component			723	760	N/A	Not mentioned in 1991 Annual Report
1991	given by component			599	668	N/A	Not mentioned in 1990 Annual Report

11 Appendix VI: Management history for Rockall haddock ('000 t).

Advice Year	ICES Advice	Total TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	Catches should be reduced to lowest possible level					Maintain closed area	EU and Russia still working on agreement regarding management but tabled closed area proposal
2005	Catches should be reduced to lowest possible level					Closed area adopted	EU and Russia still working on agreement regarding management but tabled closed area proposal
2004	Catches should be reduced to lowest possible level			6.3	6.4	Closed area adopted	EU and Russia still working on agreement regarding management but tabled closed area proposal
2003	Catches should be reduced to lowest possible level			6.1	6.2	Closed area adopted	EU and Russia still working on agreement regarding management but tabled closed area proposal
2002	Catches should be reduced to lowest possible level			3.0	3.3	No measures put in place during 2001 Annual Meeting	EU & Russia to provide proposals for January 2002
2001	N/A			2.3	2.0	No measures put in place during 2000 Annual Meeting	Concerns expressed about expanding fishery in NEAFC Regulatory Area. EU announce plans for developing management regime
2000	N/A			5.7	5.3	N/A	N/A
1999	N/A			6.0	5.1	N/A	scientific presentations & discussions. Russia file objection.
1998	N/A			5.1	4.5	N/A	N/A
1997	N/A			5.2	5.2	N/A	N/A
1996	N/A			6.8	7.1	N/A	N/A
1995	N/A			5.5	5.6	N/A	N/A
1994	N/A			3.7	5.7	N/A	N/A
1993	N/A			4.1	4.8	N/A	N/A
1992	N/A			4.5	5.3	N/A	N/A
1991	N/A			5.9	5.7	N/A	N/A

12 Appendix VII: Management history for deep-sea species ('000 t).

Advice Year	ICES Advice	TAC	Coastal State Agreed	Nominal Catch	ACFM Catch	NEAFC Mgmt.	Comments
2006	most harvested outside safe biological limits and fishing should be reduced					maintain reduction in effort to 70% put in place for 2005	Also agreements: procedures for data compilation; interim ban on use of gillnets, entangling nets & trammel nets; no directed fishery for basking sharks in 2006
2005	most harvested outside safe biological limits and fishing should be reduced					effort should not exceed 70% of highest historically	
2004	no new information but most harvested outside safe biological limits and fishing should be reduced					effort should not exceed highest historically	Roll-over of measures from previous year. ICES pointed out importance of recording effort
2003	no new information but most harvested outside safe biological limits and fishing should be reduced					effort should not exceed highest historically	
2002	no new information but most harvested outside safe biological limits and fishing should be reduced					no measures	WG on regulatory measures for deepwater species established
2001	most harvested outside safe biological limits					No measures put in place during 2000 Annual Meeting	limited discussion but EU point out that deepsea fisheries will be next big issue for NEAFC
2000	most harvested outside safe biological limits					no measures	agreed there was need to get additional advice from ICES
1999	most harvested outside safe biological limits					no measures	scientific presentations & discussions. Russia file objection.
1998	N/A					N/A	Some fishery information reported to NEAFC during 1997 Annual Meeting
1997	N/A					N/A	Agreement to report annually on catches of deepwater species
1996	N/A					N/A	Not Discussed
1995	Cautious approach to exploitation					N/A	Contracting Parties agreed to provide catch information for 1995 Annual Meeting
1994	N/A					N/A	NEAFC agreed to examine situation after receiving ICES advice
1993	N/A					N/A	Not Discussed
1992	N/A					N/A	Not Discussed
1991	N/A					N/A	Not Discussed

13 Appendix VIII: Two case Studies of IUU activity in the NEAFC Area

Case 1: The Sunny Jane

SUNNY JANE is owned by Circadata Ltd. with registered offices in UK and has been operated by Neptun Ltd, a Russian company based in Kaliningrad. In 2005, SUNNY JANE was chartered to PIRO-Fisch GMBH, a German company based in Rostock and operator of the Rostock 5 vessels. SUNNY JANE had transhipped RED from Dominican flagged trawlers owned by A.B. Bocyp Fishing Ltd., a Cypriot company based in Limassol, which resulted in it being placed on the NEAFC IUU-list and sanctions being applied in accordance with the provisions laid down in EU Council Regulation (EC) No 51/2006, Annex II Part A paragraph 13.

- Investigation of the SUNNY JANE has confirmed that the vessel is chartered by PIRO-Fisch GMBH, which filed for bankruptcy at the end of 2005.
- On 27 May 2005, the Icelandic Coastguard patrol aircraft sights SUNNY JANE in the NEAFC Regulatory Area alongside the Dominican flagged vessel OKHOTINO, call sign J7AC2, a NEAFC B-List vessel.
- On the evening of 3 June 2005, the SUNNY JANE arrives in the port of Eemshaven (NL) and is inspected by the Dutch General Inspection Service (AID). This inspection reveals that SUNNY JANE has a cargo of RED from vessels including OYRA and OLCCHAN, which appear on the 'B' list of NCP vessels engaged in IUU fishing in the NEAFC Regulatory Area. SUNNY JANE is not allowed to land in accordance with Article 6.2 of the NEAFC non-Contracting Party scheme.
- On 6 June 2005, SUNNY JANE is placed on the 'A' list following the report of the Icelandic Coastguard to the Secretary of NEAFC.
- The NEAFC secretariat reports the matter to the International Merchant Marine Registry of Belize (IMMARBE). On 10 June, an inspector acting on behalf of IMMARBE inspects the SUNNY JANE and presents a 'prohibition from sailing notice' to the master of the vessel for contravention of the Belize High Seas Fishing Act 2003. This put the vessel in the position of being prohibited from discharging its fish in Eemshaven by the Dutch authorities while being prohibited from leaving Eemshaven by the Belize authorities.
- Following contacts between the NEAFC secretariat, IMMARBE and the EC Commission, in which it was clarified that the SUNNY JANE would not be allowed to land in any port of the EU or any other Contracting Party, the Belize authorities lifts the prohibition order and the SUNNY JANE sails from Eemshaven on the afternoon of 15 June 2005.
- On 22 June 2005, SUNNY JANE arrives in Agadir to discharge cargo.
- Between June and October, Sunny Jane stays away from Contracting Party ports, apparently operating on the West African coast until August and then sailing for Kaliningrad.
- On 22 September 2005, SUNNY JANE is refused entry to Rostock and reportedly returns to Kaliningrad.
- On 4 October 2005, SUNNY JANE arrives empty at New Ross, Ireland and is inspected by Irish authorities. The vessel loads frozen fish in New Ross and in Ijmuiden (10 October 2005) for export to Klaipeda and St Petersburg.
- SUNNY JANE is transferred to the NEAFC B-List in November 2005.

- On 10 March 2006, SUNNY JANE is refused fuel at Las Palmas and detained by port authorities until 4 April, when it sails to West Africa 'to collect a cargo of frozen fish'.
- 1 June 2006: Azores fishery authorities deny SUNNY JANE entry to port scheduled for 7 June to discharge frozen tuna. Around 23 June 2006, SUNNY JANE departs Azores for Spanish coast.
- On 28 June 2006, IMMARBE reports that SUNNY JANE is at the Spanish port of Puebla del Caraminal.
- On 5 July 2006, SUNNY JANE is denied permission by the Spanish authorities to land frozen tuna at Puebla del Caraminal.

In a note to the PECCOE meeting in October 2005, 'Increasing interest in authorisation of transportation vessels and transshipment opportunities' the SUNNY JANE incident in June 2005 was described in detail. This matter was discussed at length at the 2005 Annual Meeting and conflicting information on the licence issued by the Belize authorities in the wake of the incident resulted in maintaining the placement of SUNNY JANE on the NEAFC B-list.

The 'SUNNY JANE' was observed and inspected on 9 March 2006 in the Port of Las Palmas (Canary Islands) by the Spanish authorities. The inspection revealed that SUNNY JANE had been involved in several transshipment from September 2005 and onwards.

In August 2005 the vessel made transshipment operations of frozen fish and fish flour in the port of Nouadhibou (Mauritania) with the following vessels:

- Rybalka
- Sevastopolya
- Kievskaya Russ
- Duvenikoy (transshipment operation in 18°53'N 016°26'W)
- Nordik

The cargo was unloaded in Kaliningrad from 29 August to 3 September 2005.

From 12 to 16 September 2005 the vessel received frozen fish from two Russian vessels in Torshavn (Faroe Islands). These were unloaded in Kaliningrad from 21 to 26 September 2005.

From 5 to 11 October the vessel loaded frozen fish in the ports of New Ross (Ireland) and in Ijmuiden (Holland) to unload them in Klaipeda (Lithuania) on 17 and 18 October 2005 and in Saint Petersburg (Russia) from 20 to 22 October 2005.

From 25 October to 16 December 2005 the vessel stayed in the port of Svetlyy (Russian Federation) to make repairs.

From 24 December 2005 to 21 February 2006 the vessel made transshipment operations in the Barents Sea in the North Atlantic. The cargo was unloaded in Agadir from 27 February to 2 March 2006.

The matter was brought to the attention of Belize authorities. The Secretariat pointed out to the Belize authorities on 4 September 2006, in an e-mail responding to the owners Neptun in Kaliningrad on 1 September asking the Secretariat for assistance, as SUNNY JANE was held back in Puebla de Caraminal port with a cargo of frozen tuna.

The Secretariat responded that there was nothing it could do. It further made the point that no information received from the Belize authorities so far had made it likely that the SUNNY JANE will be taken off the B-list. As this was a cargo of tuna ICCAT was informed. The statement was also sent to Belize.

On 14 September the Belize authorities faxed the Secretariat the results of their own investigations and ensuing decisions:

‘ Our findings indicate that the Owners/Operators/Master of the vessel have been in breach of Belize’s laws and regulations in a number of respects:

Breaches of the High Seas Fishing Act 2003

We attach a copy of the High Seas Fishing License which was issued to the owners of the M.V. ‘Sunny Jane’ dated 29th June 2005. You will observe that there is a requirement that:

‘Vessel should not transport species which are a regulated Resource of the RFMO of the Authorized Area without prior authorization from that RFMO and the Flag States’. Also ‘Vessel shall not engage in any activities which may undermine the effectiveness of International Conservation and Management Measures applicable to the Authorized area.’

Our inspector’s findings from the data available onboard indicate that the Owners of M.V. ‘Sunny Jane’ contravened the above mentioned conditions by not requesting prior authorization from ourselves in order to effect transshipments of tuna in the Atlantic Ocean in May 2006 – tuna being ‘a regulated resource’ of ICCAT. As we informed you on the 18th July 2006, ‘we have been able to establish that the vessels F/T Corona Del Mar and F/T Chevalier Bayard are on ICCAT’s record of Vessels over 24 meters. However, F/T Berriz San Francisco is not on the ICCAT Record of Vessels over 24 meters.’

Our enquiries also indicate that the voyage instructions given to the Master emanated from yourself and that there was no Time Charterer involved.

Our inspector’s findings as the result of examination of the vessel’s logbooks/fishing logs as well as in the report of the inspection carried out by Spanish Authorities in Las Palmas on 9th March 2006 indicate that unauthorized transshipments of codfish, ‘red king crab’ and haddock took place in the NEAFC Regulatory Area in December 2005 which were discharged in February 2006. Apart from not obtaining any prior authorization from ourselves, as you are aware, your vessel was placed on the ‘A List’ and subsequently the ‘Permanent B List’ of NEAFC and is prohibited from engaging in any transshipment operations in the NEAFC Regulatory Area.

Furthermore, Owners/Operators have failed to respond to the questions posed to them per our faxes dated 21st August 2006 and repeated subsequent reminders.

Due to the abovementioned serious breaches, we have decided to:

Impose a fine of USD 50,000 (Fifty Thousand)

Deregister your vessel ‘ex officio’ with effect from noon GMT on 22nd September 2006.

Owners’ breaches have left us with no other realistic course of action.’

Case 2: The Rostock Five

PIRO-FISCH GMBH, a company based in Rostock, has been acknowledged by the German authorities as owner of the Rostock 5 vessels in a joint venture with Russian interests. The registered owner of the vessels OKHOTINO, OSTROVETS and OYRA is Pionerskaya, based in Kaliningrad and whereas the registered owner of OSTROE and OLCCHAN is Bocyp, based in Cyprus and a subsidiary of Pionerskaya. These five vessels were transferred from the Russian to the Belize flag in 2002 and then to the Dominican flag in 2003. They were all listed in the NEAFC A-list in 2004 for suspicion of IUU activity and transferred to the definitive B-list early in 2005. All these vessels been based in Rostock and have over-wintered there each year since 2001.

In December 2005, PIRO-Fisch filed for bankruptcy and a new bare-boat charter agreement was drawn up with Trespann Ltd., a company based in Panama, which is believed to be owned by the Swedish company S.B.T. Marine AB.

- April 2005: OKHOTINO, OSTROVETS, OYRA, OSTROE and OLCCHAN sail from Rostock to start fishing on the Reykjanes Ridge.
- May 2005: NEAFC B-list comes into force.
- May 27: The Icelandic Coastguard patrol aircraft sights SUNNY JANE in the NEAFC Regulatory Area alongside the OKHOTINO. Later inspection of the SUNNY JANE reveals that OYRA and OLCCHAN transhipped during the same trip.
- July 15: NAFO reports sighting of OLCCHAN, OSTROE and OYRA on 12 July fishing in area 1F.
- Rostock 5 arrive in Rostock as follows: OLCCHAN (02/09/05), OYRA (05/09/05), OSTROE (07/09/05), OSTROVETS (09/09/05), OKHOTINO (12/09/05).
- September 14: Commonwealth of Dominica notifies cancellation of registration of Rostock 5 vessels due to consistent non-compliance of international fishery rules and agreements.
- 12 October 2005: PECCOE decision to include IMO number details in IUU lists to aid vessel identification in the event of changes of name and flag.
- 23 November 2005: OSTROVETS and OKHOTINO are supplied with packaging materials by crane.
- December 2005: PIRO-Fisch files for bankruptcy stating that the new legal measures taken by the European Union on the basis of the NEAFC rules had deprived the company of its logistical base and forced it to cease operations.
- 16 January 2006: A replacement engine is supplied to OSTROVETS by crane.
- 20 January 2006: Rostock 5 names changed to ROSITA, CARMEN, EVA, JUANITA and ISABELLA and are registered in Georgia.
- 14 February 2006: The German law firm REMÉ Rechtsanwälte, makes representations to the EU Fisheries Commissioner and the NEAFC Secretariat on behalf of TREPANN Ltd., charterers of the Rostock 5, in order to have the vessels removed from the B-list. In correspondence it is stated that vessel ownership has not changed and that the vessels would be deployed to fish for alfonsino in the Pacific Ocean.
- 15 February 2006: German authorities inspect vessels and report finding recently supplied packaging on board.

- 11 March 2006: CARMEN leaves Rostock and enters drydock in the port of Swinoujscie, Poland for repair work and class certification by the Russian Maritime Register of Shipping.
- 14 March 2006: Port inspection by Polish authorities on CARMEN notes that fishing gear on board is 'unfit for use due to wear and tear'.
- 18 March 2006: ROSITA, EVA, JUANITA and ISABELLA sail from the port of Rostock, arriving in Klaipeda on March 20.
- 22 March 2006: Vessels inspected by fishery authorities in Klaipeda, reporting no fishing gear on board.
- 31 March 2006: CARMEN sails from the port of Swinoujscie.
- 5-6 April 2006: ROSITA, EVA, JUANITA and ISABELLA sail from the port of Klaipeda.
- 11 April 2006: ROSITA supplied with fishing gear in the Norwegian port of Frederikstad.
- 20 April 2006: Rostock 5 vessels reported among other IUU vessels fishing on the Reykjanes Ridge fishing ground.
- 16 May 2006: Some IUU vessels reported to have been refuelled on the fishing ground.
- 18 May 2006: Liberian flagged tanker RAZNA reported to be in the Reykjanes Ridge area.
- 4 June 2006: Rostock 5 vessels commence transshipment operations away from fishing grounds.
- 9 June 2006: CARMEN sighted by Icelandic Coastguard aircraft in transshipment operation with Panamanian flagged reefer vessel POLESTAR. Reported to NEAFC and POLESTAR placed on A-list.
- 12 June 2006: JUANITA fouls its propeller with net and is disabled.
- 15 June 2006: JUANITA being towed by CARMEN.
- 30 June 2006: JUANITA arrives at Kristiansund, is allowed enter harbour for reason of force majeure, and has net removed from propeller under the supervision of the Norwegian Coastguard.

There has been massive public interest and exchange of information on 'the Rostock five'. NGOs and media have focussed very strongly on this case since late 2005.

PECCOE was briefed in April 2006 on the five IUU vessels with a traditional pattern of over wintering in Rostock. They were not supplied with provisions, fuel and other services. According to available information the original operator Pirofish has gone bankrupt. The Owner of the vessels is still AB BOCYP Fishing ltd, 284 Av. Makarios III Fortuna Court, Block B, Limassol Cyprus. The vessels left Rostock in March 2006, going to Poland and Lithuania.

On 6 April 2006 the EU informed the Secretariat that fishing vessels 'EVA', 'ISABELLA', JUANITA' and 'ROSITA' left the port of Klaipeda during the night of 5 April 2006.

The Rostock Five were observed fishing in the Irminger Sea at the end of April.

On several occasion the Rostock Five have been observed transshipping in the Irminger Sea. This transshipping can take place at considerable distance from the fishing grounds to avoid discovery. Legal vessels at the ground have alleged that the vessels have also been seen transshipping to authorised vessels and receiving packing material and other munitions from them. The last major transshipment in the Irminger Sea was to the Panamanian flagged vessel POLESTAR, owners Seatrade Reefer Chartering N.V., based in the Netherlands Antilles, with an office in Bruxelles.

On 7 July 2006 the Norwegian authorities informed the Secretariat that, on 30 June 2006, the vessel JUANITA had been inspected by THE Norwegian Coastguard and Directorate of Fisheries in the port of Kristiansund. The vessel was first refused arrival to Norway by the Navy Coastal Operational Centre. The vessel was after request later allowed to embark in Kristiansund under force majeure to remove fishnet from its propeller. This was done under the supervision of the Coastguard vessel EIGUN, which also guarded the vessel during its short stay. The crew was not allowed to leave the ship at any time. The vessel requested oil supply but this was refused. The vessel was short of water and was allowed to take onboard 20 cubic m of water before it was escorted by EIGUN to the open sea.

The information was accompanied by an inspection report from inspectors of the Directorate of Fisheries

The EVA was reported passing through Danish waters heading for ports in the inner Baltic on 15 September 2006.

PAVLOVSK, DOLPHIN, ULLA

In addition to the Rostock Five, in September 2005 on 15 September Dominica delisted a further three vessels. These vessels follow the behaviour pattern of the Rostock Five.

On 11 April 2006 the Faroese authorities informed that 'DOLPHIN', with call sign 4 LEQ and homeport Batumi in Georgia, entered the harbour in Tórshavn in the Faroe Islands on 31^s March 2006. The last port of call was Aalesund in Norway. The vessel was inspected by fisheries inspector Ragnar Johannesen. All fish holds were empty. The purpose of the port call in Tórshavn was to take in supplies such as provisions, fresh water and spare parts for fishing gear. According to the Russian captain Oleg Mangutin the destination was Las Palmas. The vessel departed Tórshavn on 2 April 2006. The owners are Grady Maritime S.A

The permanent Secretary of the Faroese Ministry of Fisheries later acknowledged that the vessels should not have been given any supplies and regretted the incidence.

On 17 August, the owners of 'DOLPHIN' contacted a Faroese shipping agency asking for permission to enter a harbour in the Faroe Islands. The purpose was to bring a trawl ashore for storage. The vessel was subsequently denied access to Faroese waters by the Faroese Authorities.

14 Appendix IX: Memorandum of Understanding between NEAFC and ICES

Memorandum of Understanding 2003 - 2006 between the North-East Atlantic Fisheries Commission and the International Council for the Exploration of the Sea

RECOGNISING that the North-East Atlantic Fisheries Commission ('NEAFC')

- (a) is the competent organisation for managing fish stocks in the NEAFC Regulatory Area and performs its functions in the interests of the conservation and optimum utilisation of the fishery resources of the Convention Area and shall take into account the best scientific evidence available to it;
- (b) has a responsibility for the protection of the marine environment and an exclusive competence for the conservation, management and exploitation of living marine resources;
- (c) provides a forum for consultation and exchange of information on the state of fishery resources in the Convention Area and on management policies, including examination of the overall effect of such policies on the fishery resources;
- (d) according to Article 14 (1) of the NEAFC Convention seeks the services of the International Council for the Exploration of the Sea for scientific advice on conservation, protection and sustainable use of the marine environment and particularly on fisheries resources management and related matters.

RECOGNISING that the International Council for the Exploration of the Sea ('ICES')

- (a) exists to promote and encourage research and investigations for the study of the sea, in particular in relation to its living resources;
- (b) draws up the necessary programmes and organises such research and investigations as may appear necessary and publishes and disseminates the results of this work;
- (c) provides scientific information and advice to Member Country governments, and the regulatory commissions with which cooperative relationships have been established
- (d) seeks to establish and maintain working arrangements with other international organizations having related objectives.
- (e) meets its obligations contained in this agreement only through work conducted by ICES Member Countries, and ICES has no power to manage the conduct of this work. ICES works

on the assumption that the member countries provide data and expertise that will enable ICES to respond to requests for advice.

NEAFC AND ICES have therefore reached the following understanding:

Provision of Scientific Information and Advice

1. ICES according to this Memorandum of Understanding will provide scientific information and advice, which is independent and free from political influence, to NEAFC.
2. ICES and NEAFC will consult on ways in which co-operation between them can be further improved and extended. Further improvements may include joint activities, e.g. seminars, symposia or other meetings.
3. ICES agrees to provide the NEAFC with:
 - (a) annual 'standard advice' (i.e. recurring advice) on the state and management of the main commercial stocks listed in Annex 1 according to the form established in Annex 2;
 - (b) 'non-recurring advice' as may be agreed between NEAFC and ICES, including advice concerning the state of the marine environment or ecosystem approaches to management of human activities that have an impact on the marine environment especially fisheries.
 - (c) the information on which the advice is based (*inter alia*, Study Group or Working Group Reports) will be made available to the NEAFC following the full ICES review process. Any other relevant reports published by ICES will be made available to the NEAFC.
4. ICES agrees to present the scientific information and advice at NEAFC's Annual Meeting by the Chairman of ACFM or designate.
5. the scientific information and advice will be made available immediately after its adoption by ICES. The scientific information and advice will be sent to NEAFC before 20th October, and will be presented to NEAFC by a Chairman of an ICES Advisory Committee or a designate. An ICES professional adviser will also be invited to the meetings.
6. according to the Schedule in Annex 3, NEAFC may request:
 - 'recurring' scientific information and advice;
 - 'non-recurring' scientific information and advice.

In addition to paragraphs 1 to 5, NEAFC may also make extraordinary requests for advice as appropriate.
7. in the event that scientific work necessary for ICES to fulfil its obligations under this agreement is not completed, ICES shall inform NEAFC of the nature, detail and consequences of such shortfalls.

Finance

8. NEAFC accepts ICES's policy of achieving 100% cost recovery from Member Countries and international client commissions which request ICES to provide information, advice and services. When assessing the contributions to be paid by NEAFC, due account shall be taken of contributions made by ICES Member Countries or other international client commissions of ICES with interests in the same stocks and in the same geographical area.
 - (a) against this background, the Parties shall consult and agree on a fixed price for the period of the MoU, regulated in accordance with the official rate of inflation in Denmark.
 - (b) revise Annexes 1 and 2 when appropriate;
 - (c) determine the cost for evaluation of stocks that are shared with ICES Member Countries or other international client commissions of ICES.
9. *NEAFC agrees*
 - (a) to pay - following the procedure in Annex 3 - a fixed rate as agreed upon with ICES for 'standard' advice (i.e. recurring needs) for the stocks referred to in Annex 1, with an annual increase in accordance with the rate of inflation in Denmark using **DKK 1.484 million** (2002/2003 prices) as the base, which is the 100 % recovery under the MoU signed December 10, 1998, increased in accordance with the rate of inflation in Denmark. The components upon which the ICES costs are calculated are provided in Annex 4;
 - (b) to pay 100% of the costs for non-recurring and extraordinary advice on the basis of the costs agreed upon with ICES in accordance with procedures established in Annex 3.
 - (c) to invoice NEAFC for payment due in March by the end of December and for June by the end of March, stating the amount, currency and due date of payment;

General Administrative Arrangements

10. NEAFC will be entitled to be represented in an observer capacity at the annual Statutory Meeting and Annual Science Conference of ICES. In addition, ICES agrees to the participation of a scientifically qualified representative of NEAFC as an observer at meetings of the Council's Advisory Committees. In that capacity NEAFC's representative will have the right to ask for the floor and participate in meetings, but will have no voting rights nor have freedom to change the meetings' agendas.
11. NEAFC and ICES will exchange documents and reports of mutual interest.
12. If any dispute should arise between NEAFC and ICES on the interpretation and application of the Agreement, both sides will make their best endeavour to resolve it, if necessary by the involvement of a mutually agreeable arbiter.

13. Either NEAFC or ICES may propose amendments to this Agreement. Any such proposal will be made before the end of May, notwithstanding paragraph 14 below. Any change will come into effect at the beginning of the calendar year after both ICES and NEAFC have agreed the change.
14. Either NEAFC or ICES may withdraw from this Agreement. Any such withdrawal will be made before the end of May, and will come into effect not before the end of the calendar year following the withdrawal having been decided by either ICES or NEAFC.
15. This Memorandum of Understanding will apply following signature by both Parties, and will take effect from 1 January following that signature. It will remain in force for three calendar years after that date. The Parties will meet well in advance of the expiry of this Memorandum of Understanding to carry out a full review of its terms and operation, and to agree any necessary amendments..

Signed on behalf of the North-East Atlantic Fisheries Commission and the International Council for the Exploration of the Sea:

(Signed 2003)

Annex 1. List of species in the ICES Fishing Areas for which NEAFC may request ‘Standard’ (recurring) advice from ICES. The particular stocks are those addressed to NEAFC, or addressed to IBSFC, NASCO and to NEAFC, in the ACFM Reports (ICES Co-operative Research Report series) from 1998 to 2003. In the case of the stocks for which a client commission has specific responsibility, the primary request to ICES shall be made through that client commission. ICES will copy the scientific advice to NEAFC at the same time as it goes to the client commission having specific responsibility for the stock(s) in question.

- cod
- haddock
- whiting
- saithe
- Greenland halibut
- plaice
- sole
- megrim
- hake
- Norway pout
- sandeel
- redfish
- herring
- sprat
- capelin
- blue whiting
- mackerel
- horse mackerel
- sardine
- anchovy
- anglerfish
- eels
- sharks
- *Nephrops*
- *Pandalus*
- Deep sea species

(*inter alia* ling, blue ling, tusk, greater silver smelt, orange roughy, roundnose and roughhead grenadiers, black scabbardfish, red seabream, greater forkbeard, alfonosinos and deep-sea sharks)

New species

Seabass, lemon sole, dab, flounder, turbot, brill, spurdog, skates and rays, gurnard, red mullet, lesser spotted dogfish, greater spotted dogfish and porbeagle.

ANNEX 2: Layout of ‘Standard’ (recurring) advice required from ICES

1. Fisheries-based nature of the advice

For each sea area, ICES shall define groups of stocks within which ICES shall ensure close quantitative consistency between the advice given for each stock. This should be considered a first step in the development of fisheries-based advice. During the course of the agreement ICES will be invited to explore how advice may be further developed to take account of changes in fishing practices for defined fishing fleets.

2. Stock-specific advice

2.1. Where management plans including a harvest rule for setting TACs or levels of effort have been adopted in the context of management plans, ICES shall advise on the levels of either or both catch and effort consistent with such rules. ICES shall also advise on the consistency of such plans with precautionary criteria.

2.2. ICES shall advise on the level of catch (and where appropriate the corresponding level of effort in appropriate units) consistent with the long-term sustainable exploitation of the stock³² if different from advice provided under 2.1 above. ICES shall make available detailed explanations and the supporting analyses on which the advice is based.

2.3. ICES shall advise on the level of catch consistent with taking high long-term yields and achieving a low risk of depleting the productive potential of the stock, if this is significantly different from advice provided under Paragraph 2.1 after taking into account ecosystem considerations.

2.4. ICES shall also advise on the consequences of alternative scenarios including where appropriate:

- a. No change in existing regulations concerning catch or effort;
- b. Steps including 10%, 25%, 50%, 75%, 90%, 110% and 125% intervals between the advised measures advised in either or both paragraphs 2.1 and 2.2 (=100%) and the existing regulations (=0%);
- c. Change in the existing measures 10% and 25% greater than the change implied by the advice in Paragraph 2.1.

2.5 Advice shall normally be provided for each calendar year. However, for stocks where measurement precision is low compared to the expected magnitude of changes in stock size (e.g. *Nephrops*, many deep-sea species) advice may be provided at intervals greater than each year. For short-lived species and highly seasonal fisheries the timing of the advice shall be adapted as appropriate.

3. Factors to be considered when providing advice

When providing its advice ICES shall take account of and keep under constant review the following:

- Information from, and perceptions of the fishing industry;
- Ecosystem considerations;
- Environmental and hydrographical conditions;

³² Application of the method shall ensure that the spawning biomass shall, with high probability, recover to or remain above the threshold below which recruitment is impaired or the stock dynamics are unknown.

- Regulations in force that affect fisheries;
- Factors affecting fishing operations and information from the fisheries;
- Development of fisheries technology and relevant performance changes;
- Other relevant factors that affect fishing or fish stocks.

Advice from ICES shall in all cases take account of the accuracy and precision of the available forecasts, and shall be adapted accordingly.

4. Ecosystem-based advice

In addition to taking ecosystem and environmental considerations into account when providing the recurring advice mentioned above, ICES will:

- a) Assess the extent to which the marine ecosystems are disturbed by fishing from an unexploited state and structure;
- b) Inform NEAFC of any notable imbalances in ecosystem structure that may prejudice the long-term exploitation of commercially valuable species;
- c) Propose reference points as guidance for management purposes in an ecosystem context.

This advice will be kept under review and will be updated at intervals of three years. However, ICES will in addition give rapid warnings of any serious threats to local ecosystems or species.

5. Provision of information

In support of its advice ICES shall provide client commissions with:

- 5.1. A full methodological description of the assessment and advisory procedure for each stock, updated whenever significant changes are made;
- 5.2. Estimates of landings, fishing mortality, recruitment and spawning stock together with estimates of the uncertainty with which these parameters are estimated;
- 5.3. Estimates of relevant reference points for management;
- 5.4. On request, complete data records used for assessment purposes shall be provided.

Such information should be provided whenever significant changes are made or can be detected, but not normally more frequently than implied by the schedule in Annex 3. However, NEAFC should be informed immediately of any new information indicating a previously unforeseen unforeseen biological emergency.

6. Review and Dialogue with Customers

6.1. ICES shall maintain under review all relevant regulatory arrangements concerning fisheries and will comment on the conformity with biological sustainability criteria;

6.2. NEAFC will keep under review issues described in 5.1 above and may suggest alternative approaches. ICES shall consider such suggestions and may adopt them only if satisfied as to their conformity with precautionary criteria.

ANNEX 3: Schedule of key annual administrative procedures for NEAFC and ICES

<p>YEAR 0-2003</p> <p>November</p>	<p>NEAFC agrees request for advice for Year 1 and formally transmits request to ICES.</p> <p>The deadline for Year 1 advice to be received by NEAFC is agreed.</p>	<p>YEAR 1-</p> <p>Early August</p>	<p>NEAFC formally communicates to ICES an updating of its views and priorities with respect to the Standard Advice concerning Year 2 to ICES</p>
<p>December</p>	<p>ICES provides an invoice for estimated costs for NEAFC for the Year 2004 advice based on estimated inflation rate for Denmark in 2003.</p>	<p>20th. October</p>	<p>ICES provides advice to the NEAFC for Year 2.</p>

ANNEX 3 A. Schedule for the Provision of Extraordinary, ‘non-recurring’ Advice

This table specifies the procedures to be undertaken by both parties when arranging the provision of non-recurring advice.

NEAFC	ICES
Requests for advice to be sent by letter or fax to ICES specifying the desired advice and the timescale within which an advice is desired.	ICES will respond within 21 days specifying: The nature and extent of the work that can be completed within the specified timeframe; The extent to which the questions posed can be answered; The additional costs to be recovered from the NEAFC.
NEAFC will respond within 7 days confirming whether the work is to be undertaken	If so agreed, ICES will deliver the advice according to the agreed timescale.
On receipt of the advice, the NEAFC will advise ICES within 15 days whether it considers the request has been fulfilled.	ICES will prepare a corresponding cost statement concerning the advice which will be presented to NEAFC not less than 15 days before the consultations in early February detailed below.

ANNEX 4: Components upon which ICES costs are calculated

It is the role of the commissions to formulate policies and management actions for the conservation of fisheries and the marine environment and, in order to do so, they benefit from scientific advice from ICES. Therefore they accept financial responsibility for ICES's costs of providing this advice, including: (i) the costs of databases and analyses that are needed in order to prepare advice, but generally would not occur otherwise, (ii) the preparation, quality assurance and delivery of the advice, and (iii) salary costs incurred on transferring the chairmanship of ACFM from a voluntary activity to an established professional post.

On the basis of this recognition, the following costs incurred by ICES are approved as charges for NEAFC:

1. Costs incurred by ICES (i.e. travel and per diem) related to meetings of its Advisory Committees in proportion to the time of these meetings spent on NEAFC advice;
2. secretariat staff salaries, including superannuation (with an indication of the number and grades of staff to be involved in the work), regarding preparation for, work during and follow-up after:
 - (a) Advisory Committee Meetings (*), in proportion to the agreed EC NEAFC share
 - (b) and other recurring needs associated with Study/Working Group Meetings, in proportion to the agreed NEAFC/EC share;
3. travelling and subsistence costs of a Chairman of an ICES Advisory Committee (or a designate) or other scientifically-qualified personnel in attending NEAFC's meetings, as stipulated in paragraphs 4(b) and 4(c) of the agreement. The number of these meetings at which ICES shall be represented will be mutually agreed beforehand.
4. costs, including postage and packing, of producing the documents required by NEAFC with respect to information and advice;
5. databases: IBTS database and STATLANT 27A database (*);
6. computing costs (*);
7. the cost of any work where ICES proposes employing a consultant or contractor (*);
8. other current expenditure (*);
9. a stipend for the ACFM Chair corresponding to United Nations grade P5, and a further 10% of the gross salary as a contribution to overhead costs to be paid directly to the ACFM Chair;
10. overheads (*). The overhead costs will be calculated by means of an overhead percentage which is applied to the direct salary costs of each different activity mentioned in the ICES Work Programme. Overheads are based on the documented annual costs (e.g. invoices and payments) of running ICES headquarters so that the Secretariat staff may legitimately carry out their duties. As

* In proportion to the agreed NEAFC share

these running costs have to be applied in the hours in which the Secretariat staff work for ICES's own work programme, it is deemed reasonable that an equitable share of the running costs are paid for by clients in respect of the requests for information, advice and services that they direct to ICES.

11. the overhead percentage is calculated as the ratio between total overhead costs and total direct salary costs. Included in the overhead costs are the following items:

- (a) capital cost of computing and other capital equipment;
- (b) central financial and personnel administration;
- (c) computer system support and maintenance;
- (d) a fair share of printing costs
- (e) rent of premises;
- (f) office expenses including electricity, heating, watchmen, safety and security, cleaning costs, maintenance costs (e.g. photocopier), consumables, postage, telephone and fax., office equipment, insurance, general office maintenance (e.g. painting) and staff education and training.

15 Appendix X: Summary of participation of NEAFC secretariat at meetings and conferences on oceans matters.

Conveners	Title	Year and date	Place
		2001	
ICES	Joint ICES/Commissions Working Group on Cooperative Procedures)	5-6 Feb	ICES HQ, Copenhagen
NAFO	Joint NEAFC/NAFO Working Group On redfish	13-14 Feb	Reykjavík
FAO	Food and Agriculture Organization (FAO) and Non-FAO Regional Fishery Bodies or Arrangements	20-21 Feb	FAO HQ, Rome
FAO	International Plan of Action (IPOA) on Illegal, Unreported and Unregulated (IUU) Fishing.	22-23 Feb	FAO HQ, Rome
Russian FMC	Visiting Russian VMS and FMC	9-13 May	Murmansk
Polish Ministry	Visiting Polish authorities on VMS	11-12 June	Warsaw
Government of the Faroe Islands	Conference: Protection of the Sea and Sustainable Utilisation of Living Marine Resources in the North Atlantic	21-22 June	Tórshavn
NAFO	Deep Sea Fisheries Symposium	12-14 Sep	Varadero, Cuba
Government of Iceland and FAO	Conference: Responsible Fishing in the Marine Ecosystem	30 Sep- 4 Oct	Reykjavík
MSC network	MSC Scheme Workshop. South Pacific Forum Fisheries Agency	8-11 October	Nadi, Fiji
NEAFC	Briefing of Heads of Missions and International Organisations	11 Oct	NEAFC HQ London
ICES	Meeting on Memorandum of Understanding ICES/NEAFC	22 October	ICES HQ Copenhagen
NARFMOs	North Atlantic Regional Fisheries Management Organisations, NARFMOs, 1 st Meeting	10 – 11 December	NEAFC HQ London
		2002	
IATTC	RFMO meeting , certification of catches . NEAFC not represented	9-11 Jan	IATTC HQ, La Jolla, US
Government of the Azores	XXI Fisheries Week, Azores. Lecture on NEAFC	22-24 March	La Horta, Azores Lecture kjh
ICES	Joint ICES/Commissions Working Group on Cooperative Procedures	29 Apr - 1 Mar	ICES HQ, Copenhagen
Nordic Council of Ministers	Conference on Fisheries Economics	6-7 June	Rungsted, Denmark
IMPAST	VMS Project	16 July	Reykjavík
Nordic Council of Ministers	Ecosystem based fisheries management	6-7 Aug	Lecture kjh Trondheim, Norway
EU Commission	Multiannual management of Fish Stocks.	8 October	Brussels Lecture kjh
EU Commission	Tools for measuring (integrated) Fisheries Policy aiming at sustainable ecosystem, EU Commission	28-29 Oct	Brussels
ICES	ICES Study Group on the Precautionary Approach to Fishery Management	2-6 Dec	ICES HQ Copenhagen

		2003	
IMPAST	IMPAST 2nd Follow up meeting	16-17 Jan	Nice, France
ICES	Joint ICES/Commissions Working Group on Cooperative Procedures	18-20 February	ICES HQ, Copenhagen
FAO	FAO COFI	24-28 Feb	FAO HQ, Rome
FAO	Global Regional Fisheries Organisations	3-4 March	FAO HQ, Rome
NARFMOs	North Atlantic Regional Fisheries Management Organisations, NARFMOs, 2 nd Meeting	4-5 March	FAO HQ, Rome
Nordic Council of Ministers	Conference on Fisheries Economics -	4 July	Copenhagen
ICES	Steering Group 13th Dialogue Meeting	8 July	ICES HQ, Copenhagen
ICES	Inter-organisational Consultation Forum (IOFC) on the European Marine Strategy	9 July	ICES HQ, Copenhagen
IMPAST	IMPAST 3 rd Follow up meeting	10 -11 July	Tromsø, Norway
Scottish Executive and Shetland Council	The North Atlantic Conference Protection of the Sea and Sustainable Utilisation of Living Marine Resources	1-3 October	Lerwick, Shetland
Royal Society of Edinburgh	Scottish fishery inquiry	23 October	Edinburgh
		2004	
ICES	MCCAP (former WGCOOP)	8-9 March	ICES HQ, Copenhagen
OECD	Workshop on IUU fishing	19-20 April	OECD HQ, Paris
NARFMOs	NARFMOs 3 rd Meeting	21 April	NEAFC HQ, London
ICES	13 th Dialogue Meeting	26-27 April	Dublin
The Government of the Faroe Islands	Fisheries Management – Does the practice follow the theory	3-4 June	Tórshavn, the Faroe Islands
IMPAST project		6 June	Reykjavík
Nordic Council of Ministers	Workshop on Harvest Control Rules	13-15 September	Bergen, Norway
EU DG Environment	Second meeting, the Marine Strategy - IOCF	28 September	Brussels
SHEEL project		11 October	Brussels
Nordic Council of Ministers	Nordic Fisheries Co-operation	27-28 October	Ålesund, Norway
		2005	
FAO	26th Meeting of COFI	7-11 March	FAO HQ Rome
RFBs	4th Meeting of RFBs	14-15 March	FAO HQ Rome
NARFMOs	NARFMOs 4th Meeting	15-16 March	FAO HQ Rome
ICES	MCAP-MICC meeting, Client Commissions and MCAP (Chairs of the ICES Advisory Committees)	4-5 April	ICES HQ, Copenhagen
The Government of Canada	Conference on the Governance of the High Seas and the UNFSA	1-5 May	St. Johns Newfoundland
IEEP Poseidon	Workshop on ghost fishing	10-11 May	Brussels
UNDOALOS	6th Informal Consultation Process, ICP	6-10 June	UN HQ, New York
West Nordic Council	West Nordic Conference on fisheries co-operation in NE Atlantic	15-17 June	Tórshavn, Faroe Islands
MCS network & Government of Malaysia	The Global Fisheries Enforcement Training Workshop in Kuala Lumpur	18 -22 July	Kuala Lumpur
OSPAR	WG on Marine Protected Areas, Species and Habitats	3-7 October	Bristol

		2006	
FAO	CWP and FIRMS Steering Group meeting	13-15 Feb	ICCAT HQ Madrid
UNDOALOS	UN informal preparatory consultations UNFA Review Conference	20-24 Mar	UN HQ New York
ICES	MCAP-MICC meeting	10-11 April	ICES HQ
Nordic Council of Ministers	Nordic Conference Focus on the Economy	3-4 May	Tórshavn (lecture) kjh
Government of Germany	Marine Nature Conservation in Europe in 2006	8-12 May 2006	Stralsund, (lecture) kjh
UNDOALOS	UNFA Review Conference	22-26 May	New York
Government of Norway	North Atlantic Conference on MPAs	6-7 June	Tromsø, Lecture
Government of Norway	11 th North Atlantic Fisheries Ministers Conference	8 June	Hurtigruten from Tromsø Lecture kjh
UNDOALOS	7th ICP Meeting	12-16 June	UN HQ New York
ICES	ICES Symposium Fisheries Management Strategies	28-30 June	Galway, Ireland Lecture kjh
FAO, Norway, Iceland	CIEAF - Implementing the Ecosystem Approach to Fisheries	26-28 September	Bergen Lecture kjh
OSPAR	Management Group for the Quality Status Report 2010	18-19 October	OSPAR HQ London
FAO	Expert Consultation on VMS and satellites	24-26 October	FAO, Rome jn
Chatham House	Chatham House update on IUU	21 November	Chatham House
Royal Institute of International Affairs	Global IUU Monitoring Workshop	22-23 November	Chatham House

16 Appendix XI: Guidelines for the Expectation of States considering to apply for membership in NEAFC and possible Fishing Opportunities in the NEAFC Regulatory Area

The Contracting Parties,

NOTING that in accordance with relevant principles of international law, the North East Atlantic Fisheries Commission (NEAFC) is the competent regional fishery management organisation, and in accordance with the Convention on Future Multilateral Co-operation in the North East Atlantic Fisheries (hereafter, the 'Convention'), it has implemented conservation and management measures for particular stocks in the Convention Area;

NOTING Article 20 paragraph 4 of the Convention;

NOTING Article 11 of the UN Agreement for the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; and

DESIRING to guide the expectations of future new members with regard to fishing opportunities in the NEAFC Regulatory Area;

HAVE AGREED to the following guidance:

A New Contracting Party of NEAFC should be aware fishing opportunities for new Contracting Parties will not be allocated on stocks already regulated by NEAFC,

A New Contracting Party will be entitled to allocations from stocks which are unregulated at the time when they become Contracting Parties, on the same basis as other Contracting Parties,

A New Contracting Party who was previously defined as a Co-operating Non Contracting Parties (can expect to be allocated) a part of the relevant Co-operative quota. Such allocations will be done on a case by case basis.

17 Appendix XII: Rules for obtaining cooperating non-Contracting Party status.

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.

3. Vessels of a co-operating non-Contracting Party shall only fish for regulated species if the Flag States of the vessels notifies the Secretary by 31 October by registered letter, of its intention to fish on a co-operation quota during the following year. In the notification the co-operating non-Contracting Party shall give an undertaking to monitor the activities of its vessels and carry out inspections in port and at sea in order to ensure their compliance with the relevant recommendations established under the Convention.

This notification shall also include for all fishing vessels flying the flag of the co-operating non-Contracting Party concerned that intend to fish in the Regulatory Area the information listed and in the format of Annex II of the Scheme of Control and Enforcement. The co-operating non-Contracting Party shall notify any modifications to this information without delay.

4. The co-operating non-Contracting Party shall ensure that its fishing vessels shall communicate to the Secretary by VMS, radio, telefax or telex catch reports in accordance with the specification and format set out in Annex VII of the Scheme of Control and Enforcement.

The reports on catches referred to in this Article shall be given in kilograms (rounded to the nearest 100kg) total round weight by species (3 alpha codes). The total quantity of species for which the total round weight by species is less than one tonne may be reported under the 3 alpha code MZZ (marine fish not specified).

- a) the quantities on board when entering the Regulatory Area. This report shall be made no more than 12 hours and at least 6 hours in advance of each entry into the Regulatory Area;
- b) catches every 48 hours. This report shall for the first time be transmitted at the latest at the end of the second day after the entry into the Regulatory Area and at 48 hour intervals thereafter;
- c) the quantities on board when exiting the Regulatory Area. This report shall be made no more than 8 hours and at least 6 hours in advance of each exit from the Regulatory Area. It shall include, where

appropriate, the number of fishing days and the catch taken in the Regulatory Area since the commencement of fishing, or since the last catch report;

- d) the quantities on-loaded and off-loaded for each transshipment of fish during the vessel's stay in the Regulatory Area; concerning donor vessels this report shall be made at least twenty-four (24) hours in advance, and concerning receiving vessels this report shall be made no later than one (1) hour after transshipment, and shall include the date, time, geographical position of the planned transshipment and total round weight by species to be off-loaded or which have been on-loaded in kilograms and the call signs of vessels transhipped to or from respectively; the receiving vessel shall report total catch onboard, total weight to be landed, name of port and date and time of landing at least twenty-four (24) hours in advance of any landing;
 - e) position reports; the most recent geographical position of the vessel (longitude, latitude) with a position error which shall be less than 500 metres, with a confidence interval of 99%.
5. The Secretary shall notify without delay and by the most rapid electronic means available to all Contracting Parties and co-operating non-Contracting Parties that have notified their intentions in accordance with paragraph 1 the date on which the accumulated reported catch, the estimated unreported catch, the estimated quantity to be taken before the closure of the fishery and likely by-catches, equal 100 percent of the stock subject to the co-operation quota. Each co-operating non-Contracting Party concerned shall, within 7 days of the date of issue of such electronic notification by the Secretary, close its fishery in the Regulatory Area for that stock.
6. A vessel of a co-operating non-Contracting Party shall immediately be added to the 'A' list by the Secretary if it is revealed that it has failed to establish that the fish were caught in compliance with all relevant Recommendations established under the Convention and, in the case of a vessel fishing within the framework of a co-operation quota:
- a) it is sighted engaging in fishing activities in the Regulatory Area after the fishery has been closed, or
 - b) it is sighted engaging in fishing activities in the Regulatory Area without being notified in accordance with paragraph 3, or
 - c) it fails to comply with the provisions of paragraph 4.