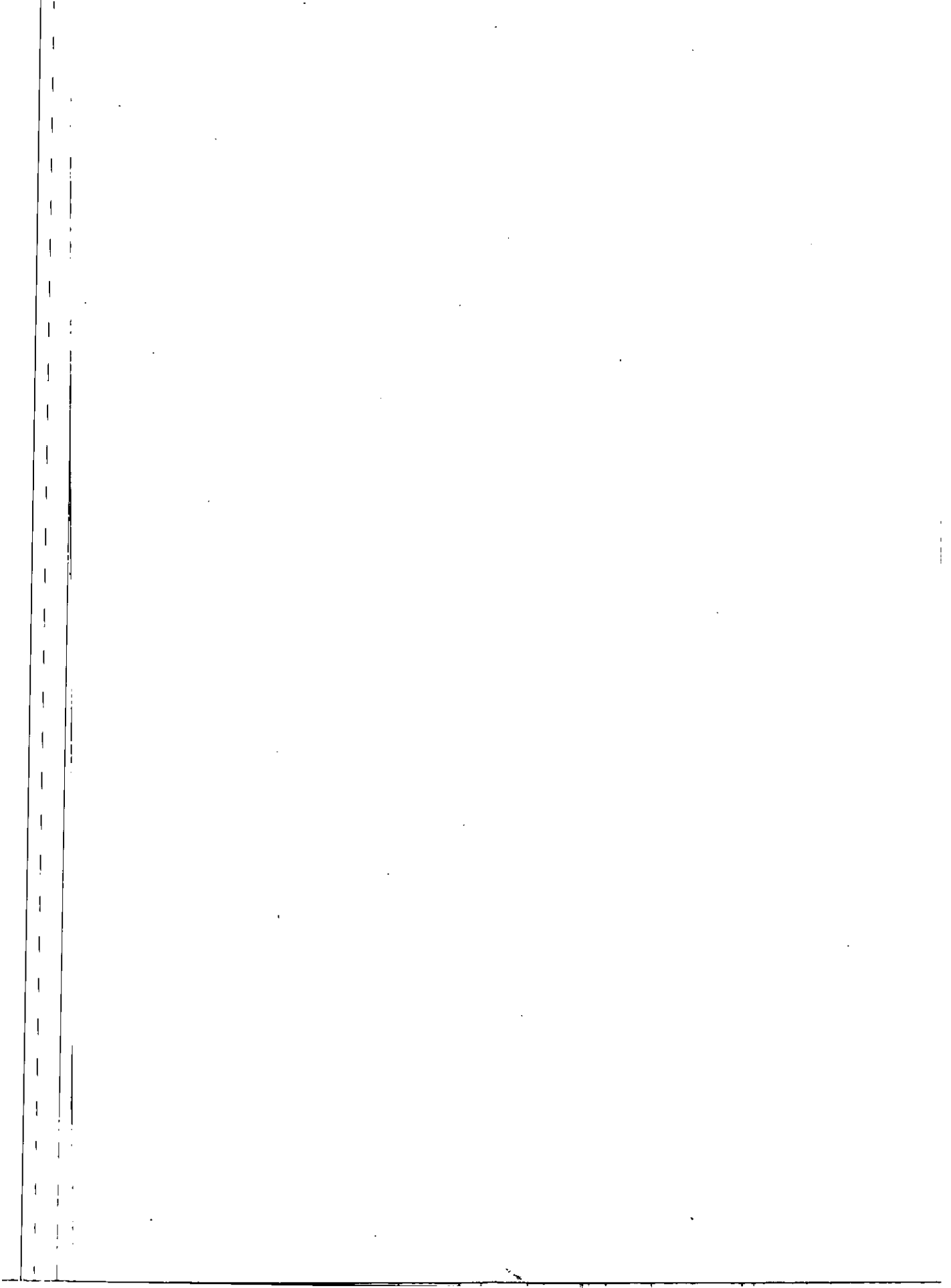


Northwest Atlantic
Fisheries Organization
(NAFO)



Meeting Proceedings
of the
General Council and Fisheries Commission
for 2001

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Foreword

This is an annual publication of the Proceedings which contains the reports of all meetings of the General Council and Fisheries Commission including their subsidiary bodies through 2001. The objective of this publication is to provide the Contracting Parties with a detailed consolidated text of all discussions initiated during the year. The proceedings of the Scientific Council are published separately in an annual issue of *NAFO Scientific Council Reports*.

SECTION I contains the Report of the STACTIC Technical Working Group on Communications, 18-19 January 2001, Brussels, Belgium.

SECTION II contains the Report of the NAFO/NEAFC Working Group on Oceanic Redfish, 13-14 February 2001, Reykjavik, Iceland.

SECTION III contains the Report of the Fisheries Commission Working Group on Statistics, 27 March 2001, Copenhagen, Denmark.

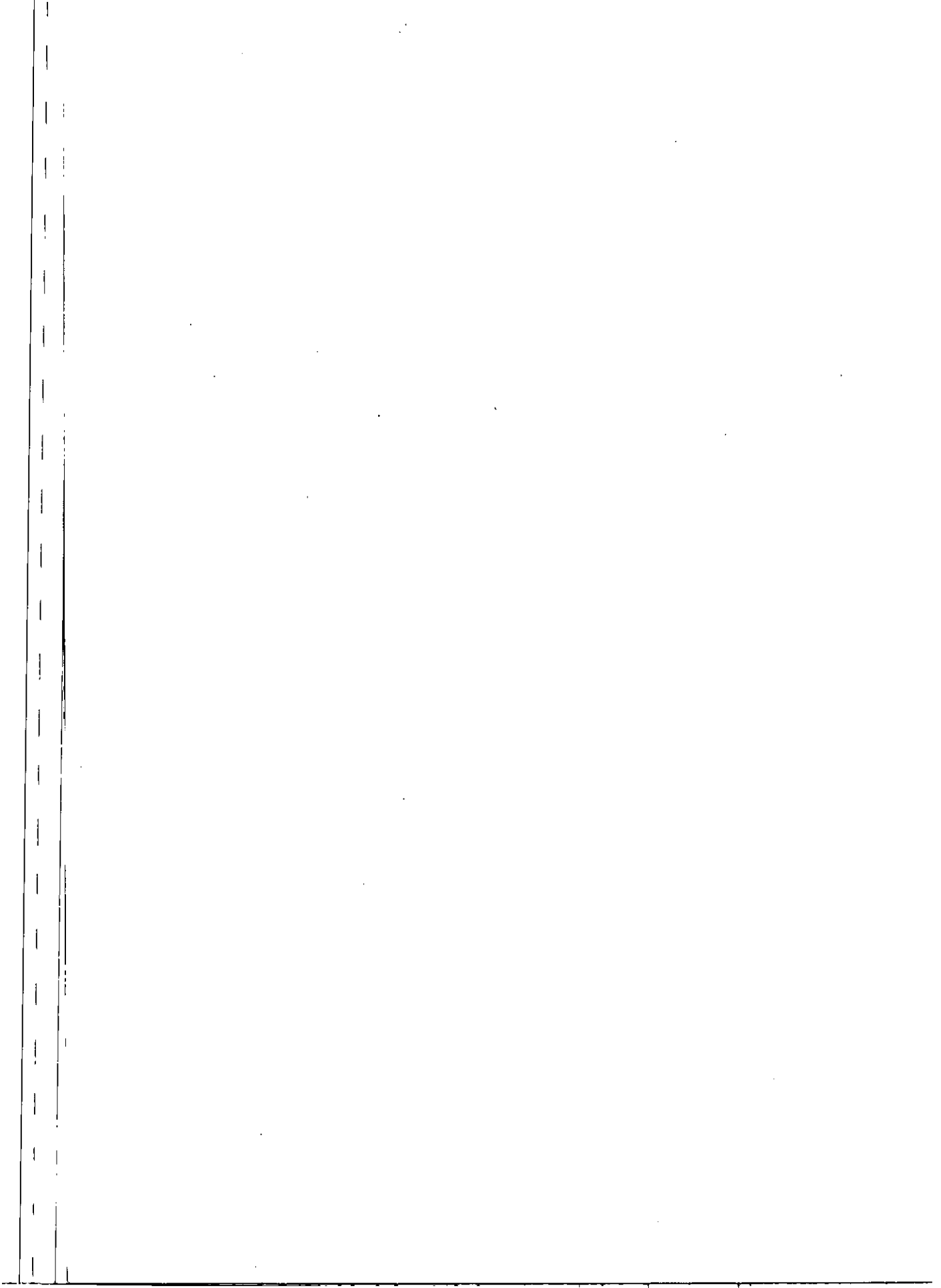
SECTION IV contains the Report of the Special Fisheries Commission Meeting, 28-30 March 2001, Copenhagen, Denmark.

SECTION V contains the Report of the STACTIC Working Group to Overhaul the NAFO Conservation and Enforcement Measures, 1-3 May 2001, Ottawa, Canada.

SECTION VI contains the Report of the Working Group on Dispute Settlement Procedures (DSP), 12-14 June 2001, Dartmouth, N.S., Canada.

SECTION VII contains the Report of the Standing Committee on International Control (STACTIC), 26-28 June 2001, Halifax, N. S., Canada.

SECTION VIII contains the Report of the General Council, 17 September 2001, Varadero, Cuba.

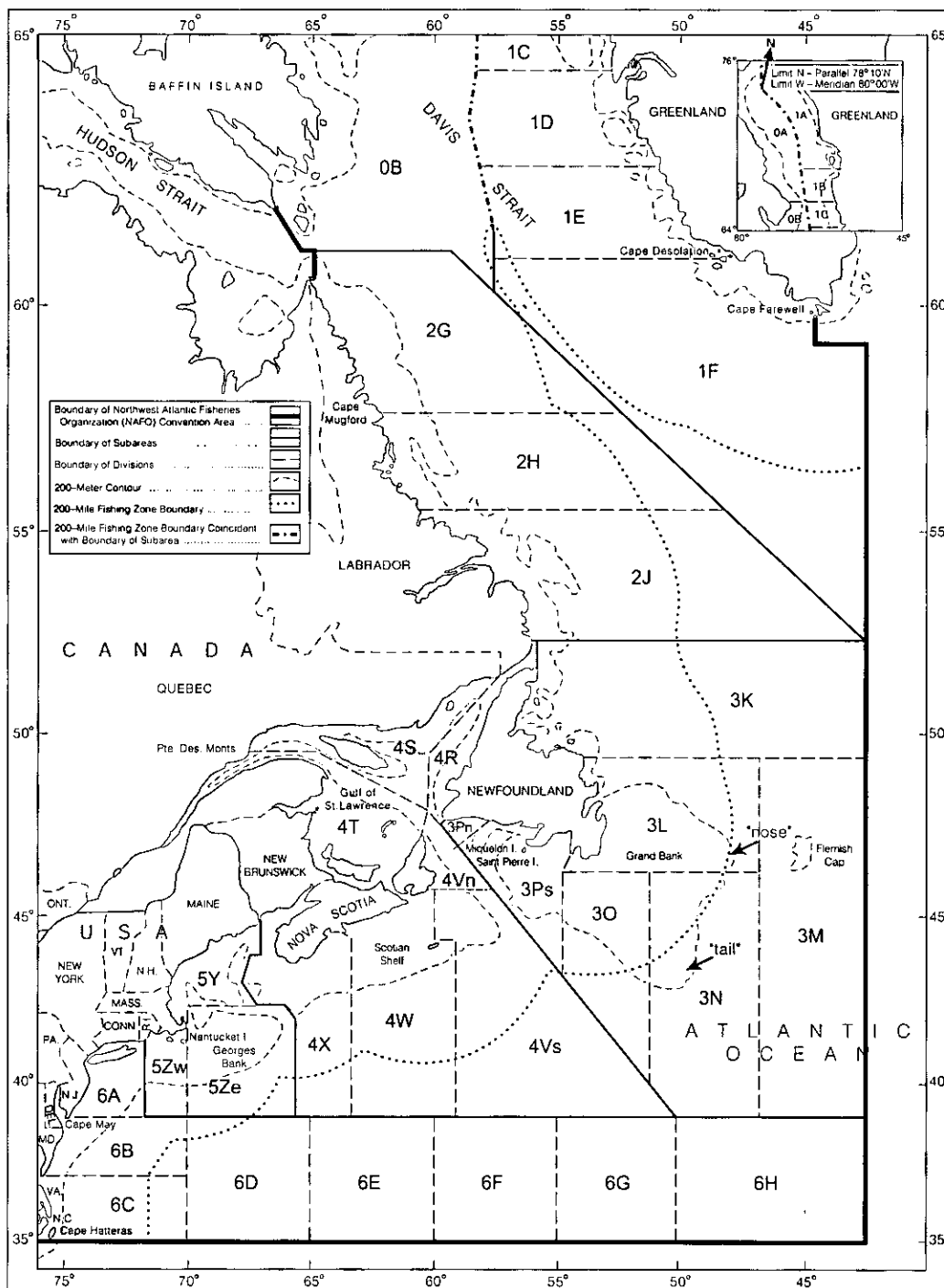


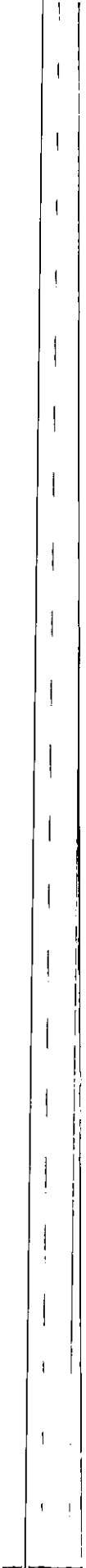
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The Convention Area to which the Convention on Future Multilateral Cooperation in the Northwest Atlantic applies





**Structure of the Northwest Atlantic Fisheries Organization (NAFO) in 2001
(as at September 2001)**

Contracting Parties

Bulgaria, Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), Estonia, European Union (EU), France (in respect of St. Pierre et Miquelon), Iceland, Japan, Republic of Korea, Latvia, Lithuania, Norway, Poland, Romania, Russia, Ukraine and United States of America (USA).

President

E. Oltuski (Cuba)

Constituent Bodies

General Council	Bulgaria, Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), Estonia, EU, France (in respect of St. Pierre et Miquelon), Iceland, Japan, Korea, Latvia, Lithuania, Norway, Poland, Romania, Russia, Ukraine and USA.	<i>Chairman</i> – E. Oltuski (Cuba) <i>Vice-Chairman</i> – P. Chamut (Canada)
Scientific Council	Bulgaria, Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), Estonia, EU, France (in respect of St. Pierre et Miquelon), Iceland, Japan, Korea, Latvia, Lithuania, Norway, Poland, Romania, Russia, Ukraine and USA.	<i>Chairman</i> – W. B. Brodie (Canada) <i>Vice-Chairman</i> – R. Mayo (USA)
Fisheries Commission	Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), Estonia, EU, France (in respect of St. Pierre et Miquelon), Iceland, Japan, Korea, Latvia, Lithuania, Norway, Poland, Poland, Russia, Ukraine and USA.	<i>Chairman</i> – P. Gullestad (Norway) <i>Vice-Chairman</i> – D. Swanson (USA)

Standing Committees

General Council	Standing Committee on Finance and Administration (STACFAD)	<i>Chairman</i> – G. F. Kingston (EU) <i>Vice-Chairman</i> – J.-P. Plé (USA)
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General Council (cont'd)	Standing Committee on Fishing Activity of Non-Contracting Parties in the Regulatory Area (STACFAC)	<i>Chairman</i> – D. Silvestre (France in respect of St. Pierre et Miquelon) <i>Vice-Chairman</i> – N. Bouffard (Canada)
Scientific Council	Standing Committee on Fishery Science (STACFIS)	<i>Chairman</i> – H. J. Rätz (EU)
	Standing Committee on Research and Coordination (STACREC)	<i>Chairman</i> – R. Mayo (USA)
	Standing Committee on Publications (STACPUB)	<i>Chairman</i> – O.A. Jørgensen (Denmark- Greenland)
	Standing Committee on Fisheries Environment (STACFEN)	<i>Chairman</i> – M. Stein (EU)
Fisheries Commission	Standing Committee on International Control (STACTIC)	<i>Chairman</i> – D. Bevan (Canada)

Secretariat

Executive Secretary	L. I. Chepel
Assistant Executive Secretary	T. Amaratunga
Administrative Assistant	F. D. Keating
Senior Secretary	B. J. Cruikshank
Accounting Officer	S. M. Goodick
Desktop Publishing/Documents Clerk	F. E. Perry
Statistical Officer/Conservation Measures Officer	G. M. Moulton
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Word Processing Secretary	D.C.A. Auby
Statistical Clerk	B. L. Marshall
Statistical Clerk	C. L. Kerr

Headquarters Location

2 Morris Drive, Dartmouth, Nova Scotia, Canada

SECTION I
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on Communications
18-19 January 2001
Brussels, Belgium**

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Report of the STACTIC Technical Working Group on Communications

(FC Doc. 01/2)

**18-19 January 2001
Brussels, Belgium**

The Meeting was held in accordance with the decision taken by the Fisheries Commission through mail consultations (GF/00-632 dated 18 Oct. 18/00 and GF-707 of Nov. 21/00).

1. Opening of Meeting

Mr. Gordon Moulton (NAFO) opened the first meeting of the STACTIC Technical Working Group on Communication at 1015 hrs on 18 January 2001 and welcomed all the delegates (Annex 1).

2. Election of Chairman

Mr. David Bevan (Canada) was elected Chairman of the meeting.

3. Appointment of Rapporteur

Mr. Kjell Nybacka (EC) was appointed Rapporteur.

4. Adoption of Agenda

The Provisional Agenda (Annex 2), as circulated to the Contracting Parties, was adopted with a change concerning confidentiality issues as noted under item 8.

5. Review of the Draft Terms of Reference

The Draft Terms of Reference, as reflected in enclosure 3 to GF/00-632, were discussed and accepted as per Technical W.G. Working Paper 01/2.

6. Evaluation of tasks and requirements for the NAFO Secretariat in the context of the reports and message to be sent and received

The tasks and the requirements for the NAFO Secretariat, as reflected in the Draft list in enclosure 4 to GF/00-632, were discussed. The list of tasks was accepted but the Parties agreed that quality control and flexibility elements should be added to the list as per Technical W.G. Working Paper 01/3, Annex 1.

During this discussion the Contracting Parties highlighted that certain elements of the NAFO Conservation and Enforcement Measures are/or will become redundant. It was agreed that this issue should be dealt with by STACTIC, as appropriate.

7. Evaluation of the resources available to the NAFO Secretariat to complete the prescribed tasks

It was agreed that a consultant is needed to assist the Secretariat in the preparation for a call for tender and other technical issues to prepare and implement a work plan to set up a running

Automated Hail and Vessel Monitoring System. A provisional list of consultants obtained at this meeting can be found in Annex 3.

It was noted that that NAFO has allocated a budget of \$ 200,000 for the proposed Automated Hail and Satellite Tracking System. The Working Group noted that this budget did not calculate the costs of consultant. It was agreed that work should proceed and operate within the allocated budget. It was agreed that the costs for a consultant must not exceed 20 % of the allocated budget.

8. Evaluation of the draft provisions on secure and confidential treatment of electronic reports and messages transmitted pursuant to Part III.E, Part VI and Part VII of the Conservation and Enforcement Measures

It was decided to deal with technical security issues in this meeting, as reflected in enclosure 6 point 4.1 to GF/00-632 and that the remaining confidentiality issues had policy implications and should be discussed by STACTIC at the inter-sessional meeting in London, spring 2001. Concerning this latter part, the Contracting Parties agreed to review enclosure 6 and provide their proposals to the NAFO Secretariat prior to the June STACTIC meeting.

The security aspects were agreed upon as per Technical W.G. Working Paper 01/3, Annex 3.

9. Review of the mandate describing the tasks to be completed by the consultant

The Draft Mandate and Task for the Consultant (System Analyst) was dealt with and approved as per Technical W.G. Working Paper 01/3.

In this context the Parties noted that the NAFO Conservation and Enforcement Measures contains a position requirement of 500 meters, while the North Atlantic Format, using the present means of degrees and minutes, does not allow for transmission of information with an error of less than 900 meters. This may result in vessels being reported in a NAFO zone other than that in which they were actually fishing. This therefore should be discussed by STACTIC.

10. Date and place of next meeting

It was noted that the time schedule is tight and a Calendar of Events was elaborated and agreed upon as per Technical W.G. Working Paper 01/3. To extent possible and in order to cope with the time schedule the Working Group will use e-mail and other telecommunications to manage the tasks set out in the event list. The Chairman of the Working Group will co-ordinate the work and the delegates will keep their Head of Delegations informed continuously. The schedule for the next week was agreed to as follows: January 22 1600 UTC – Secretariat will forward by fax and e-mail letter to the Consultants identified by Contracting Parties and to Heads of Delegations; January 23 - Contracting Parties will forward contacts and telephone numbers and e-mail addresses for those contacts to the Chairman and to the Secretariat; January 24 2000 UTC - Bids are required from the potential contractors by e-mail and forward to the contacts; January 26 1500 UTC - Telephone conference to select the successful contractor and approval for the Secretariat to hire the selected candidate.

11. Other matters

No other matters were discussed.

12. Adjournment

The meeting was adjourned at 1300 hrs on 19 January 2001.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening of Meeting
2. Election of Chairman
3. Appointment of Rapporteur
4. Adoption of Agenda
5. Review of the Draft Terms of Reference
6. Evaluation of tasks and requirements for the NAFO Secretariat in the context of the reports and message to be sent and received
7. Evaluation of the resources available to the NAFO Secretariat to complete the prescribed tasks
8. Evaluation of the draft provisions on secure and confidential treatment of electronic reports and messages transmitted pursuant to Part III E, Part VI and Part VII of the Conservation and Enforcement Measures
9. Review of the mandate describing the tasks to be completed by the consultant
10. Date and place of next meeting
11. Other matters
12. Adjournment

Annex 3. List of Consultants

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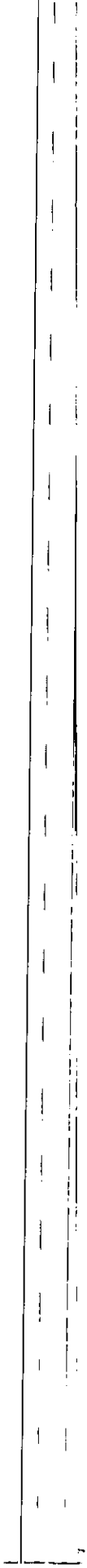
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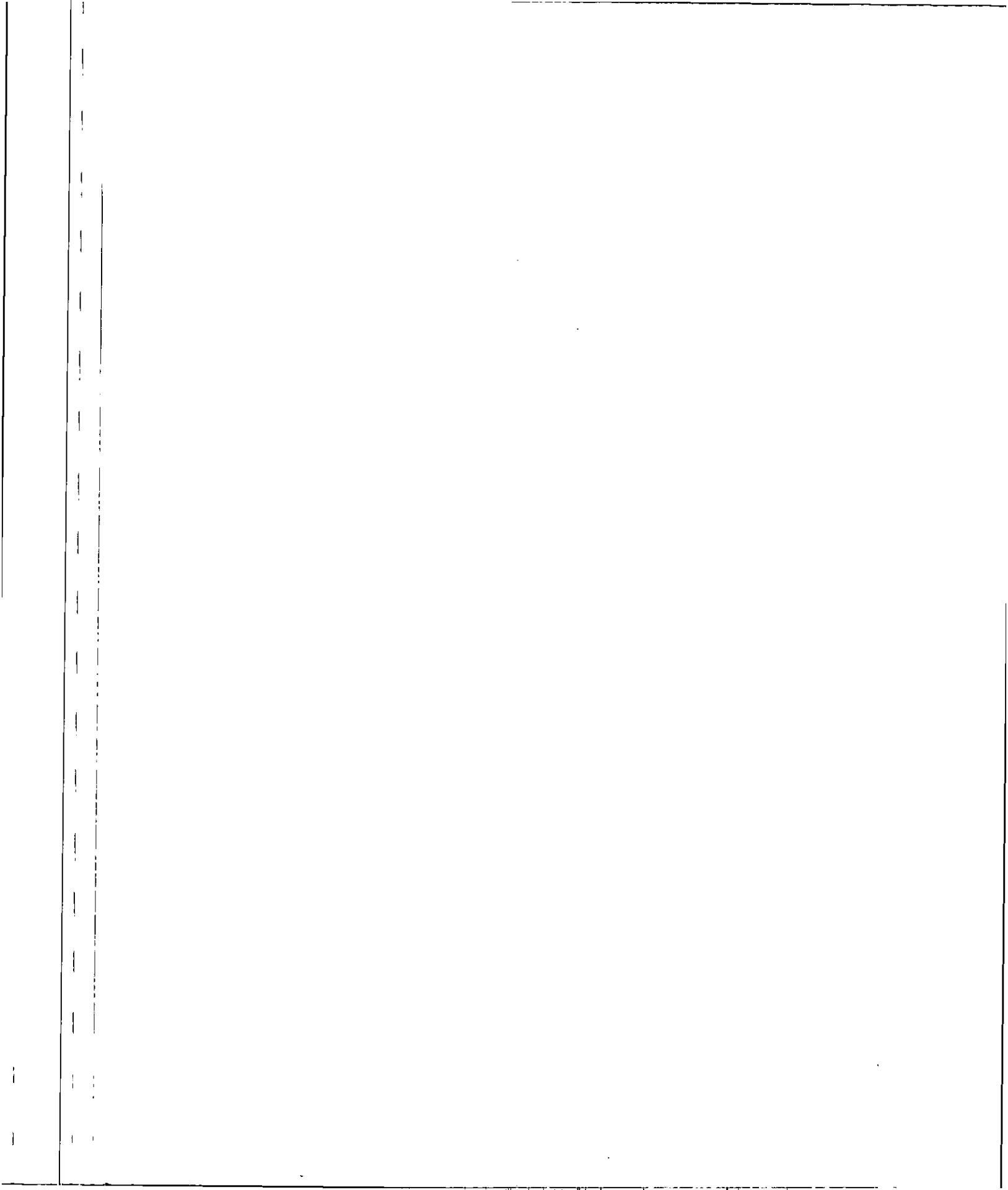


SECTION II

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**Report of the NAFO/NEAFC Working Group
on Oceanic Redfish
13-14 February 2001
Reykjavik, Iceland**

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**Report of the NAFO/NEAFC Working Group
on Oceanic Redfish**
(FC Doc. 01/3)

**13-14 February 2001
Reykjavik, Iceland**

The Meeting was held in accordance with the decision taken by the Fisheries Commission at the 22nd Annual Meeting, September 2000 (FC Doc. 00/21, Part 1, item 4.27).

1. Opening of the Meeting

Mr. Kolbeinn Árnason, Ministry of Fisheries, Iceland, called the meeting to order at 10:20 hours. He welcomed the delegates to Iceland and hoped they would enjoy their stay. He expressed the hope that the appropriate setting in the middle of the ocean of concern would further co-operation on the issues at hand. He stressed the importance of the matter to Iceland. He invited on behalf of Fisheries Minister, Mr. Árni Mathiesen, all delegates to a reception at 18 hours.

A list of participants is found in Annex 1.

2. Election of Chairman

Mr. Árnason then called for proposals for a Chairman of the meeting. Denmark (on behalf of Faroe Islands and Greenland) suggested, supported by Norway, Ambassador Eiður S. Guðnason, Iceland, as Chairman. This was approved unanimously.

3. Appointment of Rapporteur

Canada proposed Mr. Sigmund Engesaeter as rapporteur. This was approved unanimously.

4. Adoption of Agenda

Iceland suggested that in the agenda there should be a consistent terminology for the redfish in question ("oceanic" redfish). The agenda was then adopted (Annex 2).

At this point **the Chairman** invited delegates to present opening statements.

Russia expressed its interest in the fishery for "oceanic" redfish and hoped that a balanced solution would be found based on scientific advice and would be followed by all participating countries.

EU regarded the meeting to be a historical occasion. EU was a member of both Commissions and both Commissions should be able to discharge their responsibilities for conservation. To do this new ground had to be broken, because no precedents could be found for regimes for stocks crossing boundaries between two regional organisations. It was necessary to find solutions for the "oceanic" mentella covering the full range of the stock.

Estonia as a Co-operating Non-contracting Party to NEAFC and Contracting Party to NAFO looked forward with great expectations to the results of this meeting.

Canada thanked Iceland for arranging the meeting, which was a good setting for the deliberations. Co-operating Non-contracting Parties to NEAFC and Contracting Parties to NAFO will likely have a different point of view from Contracting Parties to NEAFC. Fair and equitable management and conservation solutions should be our primary objective. This is a challenging issue but it is much broader than redfish. We are discussing the management of "trans-Convention" stocks.

Iceland wanted a speedy solution to a matter important to them and so did **Denmark (in respect of Faroe Islands and Greenland)**, associating itself with previous speakers.

Norway pointed out that establishing a regime for a stock crossing the boundary between the two Regional Commissions was setting a precedent in international law.

5. Review of distribution of "oceanic" Redfish in the Northwest and Northeast Atlantic Ocean.

Iceland requested Mr. Þorsteinn Sigurðsson to present an overview of the knowledge about oceanic redfish in the North Atlantic, relevant information on physical and biological environment and surveys and data from the area, especially the information from the acoustic surveys on the distribution of the stock.

In all surveys in the 1980's and up to 1997 distribution was concluded to be mostly in the NEAFC area. In general, decreases in abundance were observed going into NAFO Div. 1F to the south and west. There was a general feeling that the majority of the stock range was covered in the surveys up to 1997.

In 1999 the survey was expanded to the south and west. In this survey there was a clear shift in abundance from the east to the south and west. In this survey there were high abundances at the western border of the survey. There was for the first time in the surveys signs of recruiting redfish below 28-30 cm.

(1999 International Survey. Proportion of Redfish Abundance by Area and Depth)

Depth	NAFO		NEAFC		
	Convention Area	Greenland EEZ	Convention Area	Greenland EEZ	Iceland EEZ
<500 m	25 %	21 %	20 %	34 %	0 %
>500 m	5 %	7 %	58 %	18 %	12 %
Sum	18 %	16 %	42 %	19 %	4 %

One theory has linked the shift with a general increase in sea temperatures in the area.

Based on charting of extrusion and 0-group abundance it is clear that the extrusion and larval areas are mainly off East Greenland. The feeding area stretches into NAFO Division 1F. German fishery data show that feeding "oceanic" redfish in 2000 stayed in the NAFO Div. 1F until October. (2nd and 3rd quarters). The fisheries data show an almost clean fishery for mostly mature redfish in both NAFO and NEAFC area.

In the 2001 the International acoustic survey is planned to cover areas further west of 53° W.

Iceland In summer, June-July, acoustic signals down to about 400-500 m depth mostly consist of redfish, but in other seasons small size mesopelagic fish are an important part of the acoustic signal, mixed with the redfish.

Canada: Wanted a clarification on the length at maturity of 28 –30 cm. Do this data cover both males and females?

Iceland: Males at maturity are generally 1 cm smaller than females at maturity, but the range covers both sexes.

Denmark (in Respect of Faroe Islands and Greenland): We have according to surveys for a number of years that “oceanic” redfish has stayed in the NEAFC area. In an addendum to NAFO SC Working Paper 01/1 for the June NAFO Scientific Council meeting we see a change. What period in time does this table cover?

Iceland: About one month.

The Chairman drew attention to Redfish W.G. Working Paper 01/5 which had just been distributed and the Russian and EU scientific papers and NAFO Redfish W.G. Working Paper 01/1. These papers, including that from which the table above is drawn, have not yet been reviewed by the NAFO Scientific Council. The Chairman at this point the invited comments on these papers.

The EU paper (NAFO SC Working Paper 01/1) was introduced by Dr. Rätz. He drew attention to the table in the addendum. He had nothing more to add to Þorsteinn Sigurðsson's introduction. Dr. Shibanov introducing the Russian paper (Redfish W.G. Working Paper 01/3) also thought that the Þorsteinn Sigurðsson's introduction was appropriate, and just drew attention to the great detail in the Russian paper on the biology of “oceanic” redfish.

The **NAFO Secretariat** introduced Redfish W.G. Working Paper 01/3) by L. Chepel. This was based on general information from FAO and other literature available in the NAFO archives and interpretation of that information.

Canada: We have one observation on Dr. Chepel's paper. We are talking about *S. mentella* in this meeting, and not *S. marinus*. The NAFO statistics are a mixture of *S. mentella* and *S. fasciatus*. We would suggest that more attention should be drawn to the fact that only *S. mentella* turns up in the oceanic phase. The situation is more complex than the paper suggests.

The EU found in the NAFO paper a confusing mixing of concepts, which needed to be clarified. The NAFO paper uses “beaked redfish” only for *S. fasciatus* and *S. mentella*. There are other clear errors and misunderstandings. There were almost no references to recent literature on “oceanic” mentella. The EU felt that this paper should not be used as basis for the deliberations.

Russia did not agree with fig. 4 of Dr. Chepel's paper. There were no data on spawning or larvae extrusion localities in NAFO Regulatory Area, Division 1F. He noted the absence of well known data on reproductive areas within the NEAFC Regulatory Area above the western slope of the Reykjanes Ridge.

EU: The NAFO Scientific Council at the Annual Meeting of NAFO in September 2000 considered that the oceanic redfish distributed in NAFO Div. 1F is part of the oceanic redfish stock previously distributed inside the NEAFC Convention area. There seems not to be any division of opinion between scientists on this issue.

EU then put some questions to the scientists.

1. Can it be confirmed that there is only a spawning and extrusion area for “oceanic” redfish in the NEAFC Area?

2. From the Russian paper it can be seen that oceanic redfish migrate into the NAFO Area in a feeding migration. Is this for a couple of months or more? What time period does the figure 30 % of the stock in the NAFO area refer to?

Russia: Evidence from ichthyoplankton and other surveys suggest that the extrusion and larval area is only found in the NEAFC Area.

Iceland: The indications from the fishery in 2000 are that CPUE decreased drastically in the 4th quarter.

EU: There is little information on this question, only fleet data, which does not necessarily reflect general abundance. However, the fishery data seem to indicate that "oceanic" redfish leave the NAFO area at the end of the year.

Canada: Are we talking about the fishable component, or do we also discuss larval distribution, which seems to stretch over the whole North Atlantic?

EU: The fishable component is under consideration. The stock structure is still open to questioning.

Canada: Asked about data from Russian fishery on the distribution of their catches during 2000.

Russia: There were some observations from commercial and survey data from NAFO Div. 1F for the period July-October.

Canada: Can we then conclude that there were commercial concentrations of redfish in NAFO Div. 1F for more than two months?

Denmark (in respect of Faroe Islands and Greenland): Table 2 in the Russian paper does not seem to indicate an extended period in NAFO Div. 1F.

Canada: Catch evidence indicates that oceanic redfish occurs in NAFO Div. 1F in commercial quantities. Fishery data shows the presence of oceanic redfish for a number of years, with varied concentrations.

Canada introduced a Power Point presentation (WG WP01/6) on oceanic redfish in the NAFO Convention area. In the old literature there were several references to oceanic redfish in the area. (Templeman 1967)

One problem was that the present survey design did not make it possible locate the western border of the stock (no zero values in the survey to the west).

The suggestion of the presentation was that the redfish from the oceanic areas continued across the ocean into Canadian waters (Sandeman hand line survey data 1969). In a salmon survey from Newfoundland to Cape Farewell echo soundings recorded redfish over the entire length of the track.

Canadian survey data have shown the occurrence of large immature redfish in the Canadian zone that Troyanovsky (NAFO SCR Doc. 89/83) had hypothesized were part of the Irminger Sea population. ICES 1990 stated that "oceanic" *mentella* were similar to fish found in the Hamilton Inlet. This report also states that currents may take larvae from the main area in the Irminger Sea into shallow areas off Baffinland and Labrador.

This area may be nursery grounds for oceanic mentella. Parasite data, incidence of *Sphyrion lumpii* – suggest a connection between the Irminger Sea and Hamilton Bank.

Alekseev (1999) concludes that "oceanic" redfish probably extend into the waters of Canada.

There have been plans to extend the coverage of the acoustic survey to the Canadian 200 mile limit.

Conclusion: Oceanic redfish extend westward through the Iceland EEZ, Irminger Sea, Greenland EEZ, NAFO Regulatory Area and Canadian EEZ.

EU: Is there any data to quantify the abundance of the oceanic redfish in NAFO and Canadian waters? Scientists in ICES thought that the surveys covered the main distribution of the stock.

Canada: No there are no quantitative data covering the western area including Canadian waters.

Iceland: It is not fair to say that the 1999 survey did describe a normal distribution situation.

Canada: In several years there have been no zeros at the western edge of the survey. ICES probably has been doing a sensible thing aimed at trying to describe the status of the stocks. But we are now concerned with the distribution.

Iceland: We are relatively certain that we cover the main distribution with the ships available.

EU: Are we dealing with one large stock for the whole North Atlantic?

Canada: The information seems to indicate that the presence of the stock in the NAFO area is not a new feature.

EU: The problem is that these data do not give any indication of what quantities are involved.

Canada: The only quantitative data at hand are from the surveys mainly covering the area east of 48° W.

EU: Should we not then base scientific advice and management on the data available?

Canada: There are a number of possible responses. Scientists would likely be pleased with a conservative TAC that would be arrived at if information on a portion of the stock was used to generate a TAC for the entire stock. However, it is more reasonable for scientists to indicate that the information available pertains to only a portion of the biomass.

EU: If there are huge quantities of redfish in the western part of NAFO Div. 1F it is surprising that commercial fishery has not started. The fishermen follow commercial concentrations.

Canada: There seems to be confusion about density and abundance. There could be a large biomass spread over a large area, although density would not make it commercially attractive.

EU: Should the stock not be managed where the fishable concentrations are?

Canada: We would tend to agree, but Canada would certainly want to know what else there is outside the high density area, so as to be able to manage properly in the high density area.

Russia: We have a management unit that moves from the Irminger Sea into NAFO Area. On the slopes of Grand Banks, Flemish Cap and Labrador there are three management units. Are there any indications of movement from the slopes into the pelagial?

Canada: No we have no observations of that. We have observed redfish migrations on the slopes between seasons. There was a fishery of 30,000-40,000 tonnes of redfish in NAFO Divs. 2+3K, but we do not know how much of that was "oceanic" redfish.

EU: We have to conclude that there are no quantitative data on abundance of "oceanic" redfish in the NAFO convention area. We should remember also that pelagic redfish is found in all fisheries zones. But we do not know if this pelagic redfish has anything to do with "oceanic" mentella. Are there any observations on length and genetic data from the Canadian side?

Canada: Yes, but we do not have it here.

Denmark (in respect of Faroe Islands and Greenland): The interesting thing is really if the observations of pelagic redfish to the west are observations of "oceanic" redfish in the Irminger Sea. Has Canada set any management measures for pelagic redfish?

Canada: We do manage redfish as one unit.

Denmark (in respect of Faroe Islands and Greenland): NEAFC manages oceanic redfish separately. Does Canada do this?

Canada: We have separate mesh size regulation for pelagic trawls.

Russia: Warned against the danger of confusing occurrences of pelagic redfish with the "oceanic" mentella of the Irminger Sea and adjacent areas. Large redfish have been observed in many areas to move into the pelagic waters outside its usual area of distribution. The only quantitative assessments we have on oceanic redfish are from the surveys in the Irminger Sea and westwards (Russia, Germany, Iceland, Norway).

Redfish W.G Working Paper 01/4 was distributed. Norway introduced the paper and said it should assist the discussion under the next agenda item.

6. Management measures for the "oceanic" mentella in the Northeast and Northwest Atlantic Ocean

Canada introduced Working Paper 01/5 on management measures for redfish in the NAFO Regulatory Area for information.

EU agreed with the summary and suggested that the President of NEAFC referred to a paper on NEAFC measures.

Mr. Einar Lemche, President of NEAFC, introduced AM 19/50, revised, that had been circulated by NAFO 1 February 2001. NEAFC took as a basis a TAC of 95,000 tonnes for "oceanic" mentella and pelagic deep-sea mentella and allocated it to 5 Contracting Parties and a co-operation quota, set aside for co-operating Non-contracting Parties. Iceland has objected to the measures introduced, but a part of the TAC had been set aside for Iceland. No information has, as yet, been received from Iceland about national regulations for this fishery. The TAC excluded discards. The mesh size in the fishery for "oceanic" mentella should not be less than 100 mm. He pointed out that the allocations for Contracting Parties were for the NEAFC Area. This was not

necessarily a final decision. NEAFC kept the question open so these allocations also could include catches taken in NAFO Div. 1F.

The President of NEAFC then went on comparing NAFO regulations to NEAFC's.

NAFO Redfish regulations and general	NEAFC Redfish regulations and general
100 % observer coverage on all vessels +	-
100 % satellite tracking of all vessels	+
130 mm mesh size and authorised top chafers	100 mm mesh size
Recording of catch (incl. discards) logbooks and production logbooks	+
Incidental catch limits (5 or 10 %)	Not applicable, clean fishery for redfish
Entry and Exit hails	+
Up to date Storage Capacity Plans onboard	+
Inspector for CPs with more than 15 vessels	+
Port inspection of offloading	-
No directed fishery in 3 LN	Not applicable
Bi weekly reporting in 3M. Seasonal restrictions	Not applicable

Canada: Canada noted that while discards in NAFO are counted against allocation, they are not so counted in NEAFC. Canada also commented on the "oceanic" redfish landings in paper 01/4. He pointed out some discrepancies with data contained in other documents tabled at this meeting.

Estonia: Pointed out an error in the table.

Russia: Informed that catch data for 2000 would be revised.

Norway: 2000 figures are preliminary. We invite other delegations to amend them at the meeting if possible.

Canada noted that all catches in the NAFO Convention Area should be reported to NAFO and observed that reporting seemed to be better to NEAFC than to NAFO.

Denmark (in respect of Faroe Islands and Greenland) pointed out that this could be the effect of a special effort made by the NEAFC Secretariat to get correct figures from Contracting Parties.

EU: Referred to the last official reporting to NAFO (September 2000). There was confusion because there was an entry on catches of redfish in 1F-3O. The NAFO Secretariat was asked to look into the matter.

7. Recommendations on the development of compatible regulatory measures for "oceanic" redfish

EU: With a view to drawing some operational consequences, the current factual situation was recapitulated as follows: The oceanic redfish stock initially occurred exclusively in the Convention Area of NEAFC and has been regulated there as a single stock unit through an allocated TAC since 1996. Irrespective of some remaining uncertainties concerning the exact structure of this stock, the main area of distribution of the stock was known. In any event, under the Precautionary Approach, absence of adequate scientific information should not be a motive for desisting from taking appropriate conservation measures. As seen in 2000, part of the stock was now moving in a

westward direction into the adjacent Convention Area of NAFO and fisheries have been following the stock in its new geographical distribution. This movement of the stock was unusual given that redfish was not a highly migratory fish stock in the technical sense. Furthermore, such an unusual configuration was not envisaged at the time of the conclusion of the conventions establishing NAFO and NEAFC respectively. The question was, therefore, how to deal with this phenomenon in the most appropriate way.

It was recalled that no precedents existed for a situation such as the present one where a stock was moving into the Convention Area of another regional fisheries organisation. It was also stressed that a "jurisdictional" solution was not at hand. The line delimiting the two Convention Areas in question was no jurisdictional boundary given that regional fisheries organisations were no entities with original exclusive rights similar to the ones enjoyed by sovereign States in sea areas under national fisheries jurisdiction. Rather the *raison d'être* of these organisations was to provide a forum which allowed their members to effectively discharge their co-operation and conservation obligations. It was also clear that the waters on both sides of the line in question fell under the international regime of the high seas. Under these circumstances, a "jurisdictional" solution would only lead to an artificial and, therefore, inappropriate "salami slicing" of one single stock. This would clearly fall short of the requirement of sound conservation of fisheries resources.

It was emphasised that, in line with contemporary ideas for sustainable fisheries, one should strive for a solution which would be the most attractive from a conservation perspective. Such a solution could be brought about on the basis of the co-operation and conservation obligations, which were incumbent upon the members of both NAFO and NEAFC under the relevant provisions of UNCLOS. In this context, it was re-emphasised that there was no alternative but for parties to co-operate. Furthermore, reference was made to Article 119 of UNCLOS which made it a requirement to *inter alia* take into account "fishing patterns", i.e. – in the present instance – the fact that established fisheries were following the stock in its new geographical distribution. Furthermore, the "due regard principle" as a general principle of international law was relevant in the present context. This principle would make it a requirement for NAFO to act with due regard to both the comprehensive regulatory measures established by NEAFC for the entire stock as well as the established fisheries carried out under these measures. Finally, one could draw inspiration from the "compatibility" requirements of the 1995 UN Agreement on Straddling Fish Stocks inasmuch as the principles of biological unity of the stock and the pre-eminence of previously established and applied conservation measures for the stock were concerned.

On such a basis, it was seen possible to contemplate a solution, which would account for the fact that the main bulk of the stock occurred within the Convention Area of NEAFC and which, therefore, would (a) leave it for NEAFC to establish the TAC for the entire stock and (b) carry with it permission for NEAFC quotas to be taken also in that part of the NAFO Regulatory Area where a small part of the stock now occurred. The latter would also be in recognition of the established nature of the traditional redfish fisheries in the Convention Area of NEAFC.

For such a solution, some support could be found in the practise followed in connection with highly migratory fish stock. Most of the Tuna Conventions (e.g; the most recent MHLC, which is not yet in force) do embody both special co-operation and consistency requirements as well as requirements which aim at avoiding a duplication of measures for cases of overlaps with areas under regulation by other fisheries management organisations. These requirements have not yet resulted in formal agreements or arrangements. In some cases, however, there has been acquiescence of a regulatory priority for the organisation, within which the bulk of a tuna stock occurred (e.g. the position of the IOTC in respect of the measures established by the CCSBT for southern bluefin tuna). This practice was considered as being of some relevance also in the present instance.

Finally, it was stressed that "due regard" and "compatibility" were no one-way-street and that, therefore, some considered weighing must be made inasmuch as collateral conservation and control measures were concerned. In this vein, one should have a closer look at the appropriateness of NAFO measures which have been established on a spatial basis (e.g. the requirement of observer coverage, which might be viewed as being too onerous a requirement for 'isolated' redfish fisheries in NAFO Division 1F, on the one hand, but which, if seen from a NAFO perspective, might need to be maintained in order to avoid creating undue loopholes in the application of NAFO measures, on the other).

Denmark (in respect of Faroe Islands and Greenland): Thanked EU for the learned exposé. Consistency, compatibility, due regard and the priority of the organisation, where the main part of the stock resides, leads us to the same conclusion as EU. The coastal state it represented would accept such an arrangement.

Iceland: Thanked EU, and could associate himself with the conclusions of EU and Denmark, also in the role as a coastal state.

Norway: Had no difficulties accepting the state of play. A solution has been found for the NEAFC area and Norway would favour that these measures were extended to the NAFO area. We are not dealing with a new fishery, it has gone on 20 years, but now in 2000 it has spilled over to the NAFO area. This should not lead to new situation.

Russia: Took note of the points made by the EU on the boundary between NAFO and NEAFC, There should be an arrangement for the entire stock. Could in general associate it self with the EU remarks.

Canada: We have now heard very clearly heard voices in favour of NEAFC's interest. It is unfortunate more NAFO members were not present so we could have heard more NAFO points of view.

Canada would also like to secure effective conservation and management of the stock. If we are concerned about due regard and the precautionary approach, attention should be drawn to the NEAFC approach to the management of oceanic redfish in relation to the scientific advice of ICES and the stronger conservation measures on the NAFO side. The NEAFC rule on discards is one example of a laxer attitude of the NEAFC side.

The present fishing pattern had only been established one year. If the 2000 situation was an anomaly should we then go through major exercises modifying NAFO arrangements? If this was a permanent feature, the NAFO countries certainly should have a right to fish the stock.

Estonia: Associated itself with Canadian remarks.

EU: Would like to stress that their presentation was not on behalf of NEAFC. The views were presented at last years annual meeting of NAFO. This was a quite difficult weighing exercise. EU has also stressed the due regard for NAFO.

There seemed to be two possibilities: Fishing within the limits of the scientific advice or opening up new fisheries.

With due regard the solution opening up for a new fishery because the stock wanders into a neighbouring area seems not to be in line with good conservation. On the both sides we have international areas, and the movement should not lead to a free for all on the other side.

Canada: For clarification, is the EU position that when a stock moves to another area that traditional fisheries should take priority. The Canadian delegation noted that the EU delegate was indicating his agreement. In this case, Canada added, this approach was not applied to the NAFO management of Greenland halibut.

EU: No general rule can be set. This has to be treated on a case-by-case basis.

Canada: The issues of conservation and allocation are different and not to be confused.

Norway: Restated its view that this is not a new fishery, but a well-established fishery with full utilisation of the stock. It made reference to UNCLOS art. 119.

The Chairman noted the absence of a number of Contracting Parties of NAFO - US, Japan, Latvia, Lithuania.

Denmark (in respect of Faroe Islands and Greenland): One important NAFO Contracting Party, Ukraine, is also missing. Referring to the Canadian presentation, he would like to address the question of which area we are talking about. The impression was that there are oceanic redfish in several places in the NAFO area, but we do not know anything about quantities and if we are dealing with "oceanic" mentella from the Irminger Sea. His delegation would propose that we concentrate on the spill over area in NAFO Div. 1F to be included in the management area for the Irminger Sea "oceanic" mentella.

Canada: We have heard about lack of information, but the information on 1F is rather incomplete as well. We could focus on 1F now, but we should be able to revert to the question area of management in light of additional information.

EU: Could accept the Canadian view but lack of information should not hold us back from taking management decisions concentrating on NAFO Div. 1F or parts of it now.

Iceland: Associated itself with EU

Chairman: We seem to be in agreement that we can focus on NAFO Div. 1F, but we will not close the issue in light of further information.

EU: There are a couple of additional topics to be discussed. One important problem is allocation, and allocation should take place according to the NAFO Convention (Article XI(4)). These rules establish that allocation should be based on track record of fishery. This would lead to allocations to the NEAFC CP already fishing for the resource. NAFO rules lead to the same result as the NEAFC proposal. It was also referred to Norway's comment on the excessive use of the co-operation quota by Estonia. This gives rise to grave concern and is hardly acceptable and should not be used to establish a track record. These catches show no considerations for co-operation or conservation, and should not provide basis for future allocation.

Estonia: After receiving a list of Estonian vessels from NEAFC in November 2000, we have compiled catches and introduced mandatory licenses for fishing in the high seas and thus we now have brought the situation under control. At the same time we have the problem of lack of fishing possibilities for the Estonian fleet and we are looking for fishing possibilities for redfish in NAFO Division 1F.

Norway: It is encouraging to hear the Estonian progress to implement the Compliance Agreement. Does the Estonian list include bare-boat charters?

Estonia: There was not on the list of vessels participating in redfish fishery any bare-boat chartered vessels. One vessel which was on the list was not identified as an Estonian fishing vessel because this vessel was not found in the Estonian vessels register.

Canada. NAFO Convention article XI(4) is perhaps not so simple as suggested by the EU. Traditional fishing is not the only factor which could play a role in setting allocation criteria in NAFO. All relevant factors must be taken into account in the allocation decision. It is NAFO's business to take care of stock in the NAFO area. It is NAFO's business to decide on what measures should be applied to the 30 % of the stock in the NAFO area.

Denmark (in respect of Faroe Islands and Greenland): The 30 % refer only to 1 month.

Canada: We know that from the survey data and fishery data that the period is much longer, extending at least from June to October, covering almost six months.

Denmark (in respect of Faroe Islands and Greenland): In a NAFO regulation usually something is set aside for "others". If we transplant NEAFC arrangements into the NAFO area, the NEAFC co-operation quota could be compared to the NAFO others quota although it is for non-contracting parties. However the non-contracting parties fishing redfish in NEAFC are NAFO Contracting Parties, so in practical terms the result may be the same.

The question of observers is another issue. In spill over operations in a clean fishery for "oceanic" mentella observers may not be that necessary.

Canada: NAFO already has a system for handling special feature fisheries in respect to the demand for observers and the fishery for "oceanic" redfish could be fit into that. It is the choice of the fishing boats to "spill over" to the NAFO area and they then undertake to meet the NAFO obligations. If the spill over is not a permanent feature NAFO rules should not be modified.

EU: We can concur with the last Canadian statement, but if it were a permanent feature with x % occurring in the NAFO area (1/2x% in Greenland EEZ and 1/2x% in the NAFO Regulatory Area Div. 1F) the question should be handled in a quite different context, and NAFO should decide upon appropriate measures.

However NAFO cannot address this question in an entirely autonomous way. NAFO is bound to have due regard to what management measures exist, fishing pattern etc. Therefore, a NAFO exercise would lead to allocations to the parties already fishing for the stock.

Canada: I referred to this point yesterday. Some NEAFC principles may be regarded as not meeting NAFO standards. NAFO has been more conservation oriented and should not be bound by an organisation less oriented towards conservation.

The Chairman raised the issue of a follow-up meeting.

Denmark (in respect of Faroe Islands and Greenland) as host for a NAFO Fisheries Commission Meeting to be arranged in Copenhagen 27-29 March 2001, proposed that the March meeting could be extended by one day (30 March 2001) to cover oceanic redfish. This way a decision on redfish could be made during the meeting, and a mail vote avoided.

Iceland supported the approach proposed by Denmark.

EU pointed out the need for introducing management for the stock which is under pressure. If no decision is made we will be faced with an "olympic" fishery this year. EU was of the opinion that decision in March was a must.

Canada referred to the possibility that the spillover fishery was an anomaly and if so it would be inappropriate for NAFO to change its rules. So-called "olympic" fisheries were well known in NAFO and it should not create any major difficulty to continue a year or two without a quota arrangement in the NAFO area. As far as a formal NAFO meeting is concerned, other NAFO parties must agree before a decision is made.

Denmark (in respect of Faroe Island and Greenland) pointed out the situation that this Working Group only can agree on requesting NAFO to arrange a meeting.

Canada pointed at experience from similar management problems in the NAFO Area. A possible meeting should be limited to discussion of a TAC and quotas for oceanic redfish in NAFO Division 1F for 2001.

EU was of the opinion that issue for discussion should be what management systems should be established for 2001 and onwards.

Canada reminded the Contracting Parties that little is known about the distribution of redfish in the NAFO Convention Area. In this situation the work should focus on how to avoid excessive fishing of this stock.

Denmark (in respect of the Faroe Islands and Greenland) suggested that in light of the limited time available focus should be on TAC and quotas for oceanic redfish in NAFO Division 1F in 2001.

Iceland supported this.

Chairman concluded that all Parties agreed to the following agenda: "Consideration of TAC and quotas for oceanic redfish in NAFO Div. 1F in 2001".

Based on a question from Norway, Canada responded that the formulation of the agenda item excluded changes in collateral management measures in 2001.

Chairman concluded that collateral management measures could not be subject to decision at the proposed additional one-day (30 March 2001) NAFO Fisheries Commission Meeting in Copenhagen. This does not exclude the possibility to discuss these issues under agenda item "other business" for a later follow-up.

Furthermore the Chairman concluded that all representatives agreed that the report for this meeting should be circulated to all NAFO Contracting Parties with the recommendation that the agenda for the Fisheries Commission meeting in Copenhagen include this proposed meeting as agreed.

8. Other business

There were no issues raised under this agenda item.

9. Adjournment

The Chairman thanked everybody for accomplishing this difficult task set out for this meeting within the short timeframe. He thanked the delegates, particularly the Heads of Delegation, for their cooperation during this meeting.

The EU delegate thanked the Iceland host for their hospitality and facilities for this meeting. Canada supported this while also thanking the Chairman for running this meeting efficiently.

The meeting was adjourned at 1845 on 14 February 2001.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening of the Meeting
2. Election of Chairman
3. Appointment of Rapporteur
4. Adoption of Agenda
5. Review of distribution of "oceanic" Redfish in the Northwest-Northeast Atlantic Ocean
6. Management measures for the "oceanic" Redfish in the Northwest and Northeast Atlantic Ocean
7. Recommendations on the development of compatible regulatory measures for the "oceanic" Redfish
8. Other business
9. Adjournment

SECTION III

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**Report of the Fisheries Commission Working Group on Statistics
27 March 2001
Copenhagen, Denmark**

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**Report of the Fisheries Commission Working Group
on Statistics
(FC Doc. 01/6)**

**27 March 2001
Copenhagen, Denmark**

The Fisheries Commission Working Group on Statistics met in accordance with the decision taken by the Fisheries Commission at the 22nd Annual Meeting, September 2000 (FC Doc. 00/21, Part I, item 3.18).

1. Opening of the Meeting

The meeting was opened by the Chairman, Mr. H. Koster (EU), who welcomed all delegates to Copenhagen. Mr. Einar Lemche (Denmark on behalf of the Faroes Islands and Greenland - DFG) provided additional details on organizational aspects of the meeting. A list of participants is attached (Annex 1).

2. Appointment of Rapporteur

Mr. W. Evans (Canada) was appointed as Rapporteur.

3. Adoption of Agenda

The agenda, as presented, was adopted (Annex 2).

4. Review and validation of catch and effort data for 3M shrimp

The Chairman opened discussions by defining possible objectives for this meeting as follows:

1. To produce a single table of catch statistics for 3M shrimp as reported by Contracting Parties in accordance with NAFO requirements.
2. To include footnotes in the table on reference catch and/or effort levels to be used by the Fisheries Commission.

The Chairman noted that it would be desirable to remove as much uncertainty as possible in advance of the Fisheries Commission meeting which could then focus on whether NAFO should adopt an allocation key based on effort and/or catch statistics.

The Chairman proposed to work on the basis of the assumption that Contracting Parties are responsible for their statistics. NAFO can therefore not amend official statistics. It would, however, be within the competence of the Fisheries Commission to base itself on adjusted reference catches.

There was further extensive discussion on this matter by most delegations. There was general agreement that the working group would develop a table of statistics with explanatory footnotes to outline concerns of particular delegations. All delegations would be offered the opportunity to provide input for the explanatory footnotes.

A list of working papers were identified as follows: FC WG WP 01/1, FC WG WP 01/2, FC WG WP 01/3, FC WG WP 01/4, and FC WG WP 01/5. Additional Working Papers (FC WG WP 01/6 - FC WG WP 01/13) as well as revisions to earlier papers were circulated throughout the meeting.

FC W.G. W.P. 01/14 presented by Lithuania after the meeting was adjourned is printed in Annex 4.

All Contracting Parties were invited to confirm the data to be included in FC WG WP 01/6.

Canada noted that it was prepared to accept data outlined in FC WG WP 01/1 and therefore withdrew FC WG WP 01/4.

With respect to adjustments of reference catches, the Chairman suggested that FC WG WP 01/3 – 3M Shrimp Reference Figures (prepared by DFG) – provided the basis for further discussion. Most delegations thanked the DFG delegation for their efforts.

The DFG delegation introduced FC WG WP 01/3. The paper calculates reference levels primarily based on catch and effort statistics reported by Contracting Parties with the following exceptions:

1. Contracting Parties that allocated more days than given by NAFO.
2. Contracting Parties that used more days than allocated.
3. Contracting Parties that used the objection procedure.

The DFG delegation noted that there were some minor miscalculations in the Working Paper (minimum of 400 days for any Contracting Party with track record) that would be reflected in a revised FC WG WP 01/11.

Although there was some agreement with this approach, many delegations also noted specific difficulties with some of these principles as well as the resulting reference levels.

It was generally agreed that these concerns would, to the extent possible, be identified in the explanatory notes attached to a table produced by the NAFO Secretariat.

Although several Contracting Parties were troubled about amended statistics for certain other Contracting Parties, data submitted by each Contracting Party was included in the revised table. The Latvian delegate insisted that its reservations on the proposed revised table were reflected in FC WG WP 01/06.

FC WG WP 01/6 (Revision 4) was adopted (Annex 3) as the basis for the deliberation of the Fisheries Commission on revised management measures for 3M shrimp.

5. Adjournment

The Chair adjourned the meeting at 1800 on 27 March 2001.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening by the Chair, H. Koster (EU)
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Review and validation of catch and effort data for 3M shrimp
5. Adjournment

**Annex 3. Revised Shrimp 3M Catches and Allocated/Used Days
1993-2000**
(FC W.G. W.P. 01/6 – Revision 4 – prepared by NAFO Secretariat)

Table 1. Revised Shrimp 3M catches and allocated/used days 1993-2000 (as received up to March 27 2001)
(Data for 2000 were taken from provisional monthly catch reports and hauls)

Contracting Party	1983		1984		1985		1986		1987		1988		1989		2000			
	Used	Catch	Used	Catch	Used	Catch	Alloc.	Used	Alloc.	Used	Catch	Alloc.	Used	Alloc.	Used	Catch		
Canada	507	3191	333	1042	319	968	492	311	908	443	156	784	443	82	435	385	618	
Cuba	-	-	-	-	-	-	100	-	-	100	-	-	100	-	-	100	22	46
Den.-Faroes	1198	7333	1778	6791	1141	5993	1785	1869	8688	1806	1274	7410	1806	1317	9368	1606	963	
Den.-Greenland	572	3780	482	2272	265	2316	572	202	1098	515	31	105	515	113	862	515	201	
Estonia	149	288	744	1050	2228	2379	1852	1086	1899	1667	1237	3240	1667	1454	5533	1667	1706	
European Union 1)	139	754	97	432	44	487	508	128	198	457	158	593	457	331	1553	1667	12196	
France (SF)	-	-	-	-	-	-	100	-	-	100	22	-	100	-	-	457	315	
Iceland 3)	279	2195	538	2355	1842	7481	N/A	5256	20682	N/A	1327	5473	N/A	980	6580	N/A	8912	
Japan	-	-	-	-	-	-	100	-	-	100	-	-	100	-	-	100	69	
Korea	-	-	-	-	-	-	100	-	-	100	-	-	100	-	-	100	114	
Latvia 2)	-	-	190	324	649	679	544	504	1253	490	344	997	490	334	1191	490	450	
Lithuania 2)	-	-	453	863	638	980	638	918	1585	579	611	1785	579	866	3107	579	3528	
Norway	1403	7074	2206	8625	2162	9391	2206	1549	5646	1985	329	1886	1985	211	1339	1985	399	
Poland 2)	-	-	-	-	-	-	100	-	-	100	100	817	100	40	148	100	43	
Russia 2) *	76	54	167	350	1533	3327	N/A	2541	4445	2600	448	1090	2600	-	-	2100	1411	
Ukraine	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100	18	
USA	-	-	-	-	-	-	100	-	-	100	-	-	100	-	-	100	94	
Total	4323	246249	7068	24104	10821	34001	9197	14364	46404	10842	6037	25180	10842	5728	30116	10555	6504	43268
																10555	7624	50338

* The number of days used in 1995 up to the end of August is 1140 days.

NOTE: See explanation of footnotes on next page.

Footnotes:

- 1) The EU stated that the data for the years 1993-1995 reflect uncertainties due to the absence of regulatory measures for shrimp in those years and due to catches having been taken in mixed fisheries (i.e. vessels engaging in both shrimp fisheries as well as demersal fisheries such as redfish, cod and Greenland halibut in NAFO Division 3M). The allocation of 508 shrimp fishing days is based according to the EU on the examination of all relevant sources such as logbooks and hail reports. Certain other Contracting Parties were of the opinion that the appropriate reference for the EU would be 400 days as from 1997. As the EU did not exceed levels considered appropriate no adjusted reference is calculated.
- 2) Certain Contracting Parties exceeded the levels of fishing days allocated. Adjusted reference catches are calculated as follows:

Lithuania	1996	$1585 \cdot 453 / 918 = 782$ tonnes
	1997	$1.785 \cdot 408 / 611 = 1.192$ tonnes
	1998	$3.107 \cdot 408 / 866 = 1.464$ tonnes
	1999	$3.371 \cdot 408 / 620 = 2.218$ tonnes
Poland	1999	$859 \cdot 100 / 104 = 826$ tonnes
Latvia	1999	$3.080 \cdot 490 / 498 = 3.031$ tonnes
Russia	1996	$4444 \cdot 1140 / 2541 = 1994$ tonnes

Lithuania stated that it is not in agreement with the calculation of the reference catches.

Russia could understand the calculation but was opposed to any adjustment to its reference level.

- 3) Iceland lodged objections to the NAFO regulatory measures concerning 3M shrimp and applied catch restrictions instead. Iceland stated that it is not in agreement with any adjustments to its reference level.

It was suggested by certain other Contracting Parties that on the basis of the NAFO regulatory measures the reference catches could be calculated as follows:

Iceland	1996	$20.682 \cdot 1323 / 5256 = 5206$ tonnes
	1997	$6.473 \cdot 1191 / 1327 = 5810$ tonnes
	1999	$9286 \cdot 1191 / 1222 = 9050$ tonnes

NOTE: Latvia expressed general reservation to the Table 1, in particular, on fishing days used and allocated for years 1995 and 1996 by using uncertain and not reliable statistical data.

Annex 4. 3M Shrimp Data (paper by Lithuania)
(FC W.G. W.P. 01/14)

Bearing in mind that the fishing fleet of Lithuania has not fished shrimps in the NAFO Regulatory Area after September 1, 1995, the adjusted reference catches of Lithuania (FC W.G. W.P. 01/6-Revision 3) are not correct.

The correct adjusted reference catches of Lithuania must be calculated as follows:

1996	$1585 : 918 = 1.73 \text{ mt/day};$	$1,73 \times 638 = 1104 \text{ mt}$
1997	$1785 : 611 = 2.92;$	$2.92 \times 579 = 1691$
1998	$3107 : 866 = 3.59;$	$3.59 \times 579 = 2079$
1999	$3371 : 620 = 5.44;$	$5.44 \times 579 = 3150$
2000	$3528 : 581 = 6.07;$	$6.07 \times 579 = 3516$



SECTION IV

(pages 55 to 72)

Report of the Special Fisheries Commission Meeting 28-30 March 2001 Copenhagen, Denmark

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Report of the Special Fisheries Commission Meeting

(FC Doc. 01/7)

**28-30 March 2001
Copenhagen, Denmark**

The Working Group met in accordance with the decision taken by the Fisheries Commission at the 22nd Annual Meeting, September 2000 (FC Doc. 00/21, Part I, item 3.18).

1. Opening of the Meeting

The meeting was opened by the Chairman, Mr. P. Gullestad (Norway), who welcomed delegates to Copenhagen. Delegates expressed appreciation to Denmark (on behalf of the Faroe Islands and Greenland) for the excellent meeting facilities. A list of participants is attached (Annex 1).

2. Appointment of Rapporteur

Mr. R. Steinbock (Canada) was appointed as Rapporteur.

3. Adoption of Agenda

The agenda, as presented, was adopted (Annex 2). In response to a question from Denmark (on behalf of the Faroe Islands and Greenland), the Chairman clarified that the September 2000 NAFO annual meeting decided that Agenda item 6 covered both the allocation of 3M shrimp and 3L shrimp in the NAFO Regulatory Area.

4. Evaluation of existing effort management system for shrimp in Division 3M

The Chairman opened discussions by reviewing the background of the existing effort management system. Since the adoption of the current effort system in September 1995 for 1996, there have been on-going discussions regarding the effectiveness of the system and possible changes to a TAC and quota management system.

Some delegations expressed the view that the effort management system for shrimp in Division 3M is appropriate and could be improved if it were properly implemented. Most delegations took the view that there were serious shortcomings in the effort system including:

- the lack of adherence by Contracting Parties to the NAFO allocation decision,
- the voluntary declaration of effort days by Contracting Parties,
- the continuing increase of catches to unsustainable levels despite the Scientific Council advice to reduce catches to a level less than 30,000t,
- the large potential for increased effort and catches based on the large latent capacity. Only about 60 per cent of the effort days were used during 2000 and catches could be about 73,000t if the allocated effort days were fully utilized, and
- The absence of a mechanism to reduce the effort days allocated commensurate with increases in fishing efficiency.

The Chairman noted that most delegations wanted to discuss changes towards a TAC and quota management regime but their willingness to endorse change depended on the expected allocation outcome for that Contracting Party. He concluded that there was a choice between moving to a TAC and quota regime or implementing improvements to the current effort system.

5. Possible establishment of a TAC for shrimp in Division 3M

Mr. Bill Brodie, (Canada), Chairman of the Scientific Council, provided a summary of the advice for shrimp in Division 3M from the November 2000 Scientific Council meeting. He advised that there has been relative stability in the catch rates over the last three years based on the standardized CPUE. The stock sustained an average catch of more than 40,000t in 1999-2000. The biomass and the spawning stock biomass (SSB) were higher in 1998-2000 than 1994-97. While there was no trend in the SSB from the Faroese survey, the SSB declined in 2000 based on EU research vessel data and was down in 2000 based on Icelandic CPUE. The Scientific Council is unable to determine absolute stock size since the short time series dating back to 1993 contributes to the uncertainty. The Scientific Council expressed concerns regarding recruitment. The 1997 year-class appeared to be below average in 1999 and the 1998 year-class is the lowest observed. It recommended a reduction in catch for 2001 to the previously advised TAC level of 30,000t. Scientific Council was not able to advise on catch for 2002 at this time but based on reduced recruitment from the 1997 and 1998 year-classes, a further reduction of catches in 2002 will be warranted - particularly if catches in 2001 exceed 30,000t. It also expressed concerns regarding high catches of juveniles and recommended that the Fisheries Commission adopt technical measures to improve selectivity. In response to a question from the Fisheries Commission on the current closure in Division 3M, the Scientific Council advised that to be effective the area of the current closure should be increased from the 140 meter depth to the 200 meter depth contour and that it be extended from the current June -September period to the entire year.

In response to a question from the Representative of Latvia, Mr. Brodie clarified that the standardized CPUE takes into account seasonal changes as well as increases in fishing efficiency.

The Fisheries Commission Chairman concluded that the Scientific Council advice provides a biological basis for a TAC of 30,000t and that area closures are effective in protecting juvenile shrimp.

Mr. H. Koster (EU), Chairman of the Fisheries Commission Working Group on Shrimp Statistics, provided a summary of the March 27 meeting and concluded that table of catches and allocated/used effort days for 3M shrimp found in FC W.G. W.P. 01/6 - Revision 4 provided the starting point for the Fisheries Commission's deliberations. The Representative of Lithuania requested that W.P. 01/14 be added to the Working Group's report. It was noted that this report was distributed after the Working Group meeting and thus other delegations did not have a chance to comment thereon.

6. Allocation of shrimp fishing opportunities among Contracting Parties in the NAFO Regulatory Area

A list of working papers was identified as follows: FC Working Papers 01/1, 01/2, 01/3, 01/4, 01/5, and 01/12.

The Representative of Denmark (in respect of the Faroic Islands and Greenland) submitted a proposal (FC Working Paper 01/1) regarding its analysis of the anomalies and its view on the fishing days and catches that should be used to offset the anomalies and as a basis for allocating 3M shrimp in a future TAC and quota system. A number of delegates expressed reservations with this proposal. The Representative of Iceland could not accept the proposed adjustments as its fishery was conducted pursuant to an objection to the NAFO decision for an effort limitation scheme.

Delegations expressed their opinions on important elements to be considered in determining allocations including historical catch during a representative period, the need to develop some procedure to amend catch figures due to anomalous catches (general agreement to adjust for overages except by one Party), providing some minimum threshold or guaranteed fishing opportunity to those Contracting Parties with no or little track record ("newcomers") through an "Others" quota or a distributed quota to these Parties, recognition for research and data collection efforts, and recognition for contribution to control efforts. While some delegates saw merit in using catches including for 2000, other delegates recalled that there was agreement at the March 2000 shrimp meeting to exclude 2000 catches to avoid creating an additional incentive to increase catches. Delegations proposed a number of different reference periods for consideration including the following:

- Catches during 1993-1999
- Catches during 1993-1999 excluding anomalies in 1996 and 1999
- Catches during 1995-2000
- Catches during 1997-98
- Catches during the original reference period 1993-Aug 31, 1995
- Effort days and vessels during 1996 (on the basis of the original reference period)
- Catches during 1997-2000

The Representative of Canada submitted a working paper (FC Working Paper 01/2) which consolidated for easy reference the six noted reference levels including a further adjustment for an annual "Others" quota of 5 per cent. It also supplemented the analysis with a seventh column showing the average of the six other options. The Representative of Canada stated that this column could be considered a representative and fair proposal as it has the benefit of dampening the variability of the other options, however it was not intended as a proposal but as a working document to facilitate further analysis. While the Representatives of the European Union and the USA supported this working paper as a useful tool, the Representative of Latvia noted the absence of fishing days as an option in the working paper and did not believe that the paper could lead to any consensus.

The Representative of Denmark (in respect of the Faroe Islands and Greenland) submitted a proposal based on the following principles: historical catches during 1993-1995, scaled down by 93/100, 3 per cent in recognition of the contribution to research surveys directed for 3M shrimp, and 4 per cent for an "Others" quota. While the Representative of Norway expressed support for the 1993-1995 reference period, the Representatives of Latvia and Iceland did not agree that the 1993-95 period was an appropriate reference as it did not reflect the way that the 3M shrimp fishery had evolved, stabilized and become a commercial fishery. The Representatives of Iceland and the EU questioned the basis for the 3 per cent proposed for research surveys. The Representative of the EU asked why contributions to control and enforcement had not been considered as envisaged under the NAFO Convention Article XI.4. In this regard, it was noted that Canada and the European Union provide inspections in the NAFO Regulatory Area.

The Representative of Japan submitted a proposal to benefit the Contracting Parties with a minimal or no track record in the 3M shrimp fishery (Cuba, France (on behalf of SPM), Japan, Korea, Poland and Ukraine), based on criteria in Article 11 of the UN Fish Agreement. The proposal would allocated 10% of the TAC to these seven Contracting Parties, to be divided equally ($10:7 = 1.43$ per cent) and to be reflected separately for each in the Quota Table. The Representative of Ukraine explained that this figure was based on an assumption of a TAC of 30,000t ($30,000 \times 1.43 = 429$ t) to ensure a minimum guarantee of 400t each. Some of these Parties stated that they had refrained from fishing out of concern for conservation of the shrimp resource and their restraint should not result in any disadvantage in any future allocation. Other

Parties expressed awareness of the concerns of newcomers but felt that it was unfair for newcomers to obtain a share equal to those with a fishing record.

The Representative of Russia submitted a proposal for an allocation scheme for 3M shrimp (FC Working Paper 01/5) which takes into consideration historical data before the introduction of the current regulations, the existing mechanism of the regulation, and the 2000 catches as a reflection of the current level of fishing. The Representative of Estonia expressed support in developing this proposal further. The Representative of Canada saw merit in combining consideration of catch and effort days but could not support the use of 2000 catches in any proposal. The Representative of Denmark echoed Canada's remarks on the need to exclude 2000 catch data.

The Representative of Latvia presented a proposal (FC Working Paper 01/12) for an adjustment of the fishing effort to the fishing pattern that has developed after the 1997 amendment to the effort limitation scheme. It envisaged a 30 per cent reduction of the fishing days used during the period 1997-2000. The Representatives of Norway and Denmark expressed opposition to this proposal as it disregarded the catches prior to 1996 and in their view, would not result in any substantive reduction.

Given the disparate and conflicting views on the proposals for an allocation key, the Representative of Canada suggested that the Fisheries Commission needed to take steps to reduce fishing pressure in order to ensure the conservation and sustainability of the shrimp resource in Division 3M. He proposed a 40 per cent reduction in the current effort day system in 2001 (FC Working Paper 01/10) which would provide a more significant, meaningful and realistic option than that previously proposed. He explained that while a TAC and quota regime remains Canada's objective for the long term, this approach for effort reduction is a stop-gap measure to achieve an immediate reduction in fishing pressure as well as provide a basis for further reductions in 2002. The Representative of Latvia stated that they were prepared to discuss reductions only for 2002. The Representative of Ukraine did not support any reduction for Parties with only 100 days effort allocated.

After some discussion, the Chairman proposed as a compromise to modify the proposal to reduce the number of fishing days in 2001 by 15 per cent. It was proposed that those currently with allocations of 400 days and 100 days would not be affected. It was noted that this measure would be without prejudice to any future sharing arrangements. It was proposed that discussions on a TAC/quota regime would continue at the September 2001 annual meeting and if Parties are unable to agree on a TAC/quota regime, Parties should prepare for further reductions in effort days which could also affect those with 100 days allocated. The Fisheries Commission **adopted** an amendment to the NAFO Conservation and Enforcement Measures as follows (Annex 3):

"Each Contracting Party shall, in 2001, limit the number of fishing days by its vessels fishing for shrimp in Division 3M to *(delete 90%)* 75% of the maximum number of fishing days observed for their vessels in one of the years 1993, 1994 or 1995 (until 31 August 1995). However, for Contracting Parties with a track record in the period from 1 January 1993 to 31 August 1995, a minimum level of 400 fishing days is permitted."

The Representatives of Norway and Denmark (on behalf of the Faroe Islands and Greenland) stated that those with 400 days and 100 days should share equally in the conservation burden. The Representative of Iceland stated that this decision does not change Iceland's position and that it would continue to object to the effort scheme and set a unilateral quota. It was unclear whether Iceland would reduce its current unilateral quota of 10,100t. The Representative of Latvia stated that he was not against the proposal in general but that he could not agree to implement it in 2001 as a result of national fisheries legislation and contracts on allocation of fishing rights already

having been signed between the governmental authorities and the fishing companies. Latvia also disagrees with further intention to reduce the number of fishing days for Contracting Parties with a minimum of 400 days which have track records on fishing activities for the years 1993-1995.

Given the advice from Scientific Council with respect to the current measures for closure of the Flemish Cap Bank for 3M shrimp, the Representative of Canada proposed amending this measure by extending the current area from the 140 fathom depth to the 200 fathom depth and the time of the closure from June 1 to September 30 to the end of the year to ensure effective protection of juvenile shrimp. While delegates appreciated the objective of the proposal, they expressed the need for additional time to consult on the impacts on their fishery. The Representative of Canada urged Parties to review the proposal in preparation for further consideration thereof at the September 2001 annual meeting.

With respect to 3L shrimp, the Representative of Denmark (on behalf of the Faroe Islands and Greenland) proposed an alternative allocation of the TAC for 3L shrimp in the NAFO Regulatory Area for 2002 (FC Working Paper 01/11). He noted the proposal was not intended for consideration at this meeting but for decision at the September 2001 annual meeting. He explained that the starting point is that the TAC for 2002 will be shared between Canada (to be fished within the Canadian zone) and other Contracting Parties. He proposed that the allocation of the portion not allocated to Canada should be based on the following principles: historical catches - 93%, contribution to research surveys directed at 3L shrimp - 3%, and an "Others" quota of 4%. He advised that a formal proposal would be made in September 2001.

7. Consideration of TAC and quotas for Oceanic Redfish in NAFO Division 1F in 2001

At the request of the Chairman, Ambassador E. Gudnason, (Iceland), Chairman of the NAFO-NEAFC Working Group, provided a summary of the meeting of this working group held February 13-14 in Reykjavik, Iceland. He noted that a number of NAFO Contracting Parties were absent from this meeting. He advised that while there were no conclusions reached, it was agreed to add consideration of this item to the agenda of the Special Fisheries Commission meeting. He noted that a detailed Rapporteur's Report was included in NAFO/FC Doc. 01/3.

In order to permit a full understanding of the distribution of the oceanic redfish stock, Iceland proposed that Mr. T. Sigurdsson, (Iceland) present an overview of the stock in the North Atlantic. He provided relevant information on the physical and biological environment and surveys and data from the area, especially information from the acoustic surveys on the distribution of the stock. He noted that in all surveys in the 1980s and up to 1997, distribution was concluded to be mostly in the NEAFC Convention Area. In general, decreases in abundance were observed as the stock moved into NAFO Division 1F to the south and west. There was a general feeling that the majority of the stock range was covered in the surveys up to 1997. In 1999 the survey was expanded to the south and west. In this survey there was a clear shift in abundance from the east to the south and west. In this survey, there was a high abundance at the western border of the survey. There was for the first time in the surveys signs of recruiting redfish below 28-30 cm. He provided a chart showing the proportion of redfish abundance by area and depth from the 1999 International Survey - 34 per cent was in the NAFO Convention Area including 16 per cent in the Greenland EEZ. He advised that based on charting of extrusion and 0-group abundance, it is clear that the extrusion and larval areas are mainly off East Greenland. The feeding area stretches into NAFO Division 1F. German fishery data show that feeding "oceanic" redfish in 2000 stayed in the NAFO Division 1F until October (2nd and 3rd quarters). The fisheries data show an almost clean fishery for mostly mature redfish in both NEAFC and NAFO areas. He noted that for 2001 the international acoustic survey is planned to cover areas further west of 53' W, and that the results would be available in late October 2001.

The Chairman noted that due to changes in stock distribution, fishable portions of the oceanic redfish stock are moving westward into the NAFO Convention Area into Division 1F. While it was clear that a considerable portion of the stock was in the NAFO Convention Area during 1999 and 2000, it is unclear whether this movement indicates a longer term trend. The extent of the occurrence in Canadian waters had not yet been substantiated. He summarized the possible options for management of this resource as follows: NAFO-NEAFC developing a joint TAC and quota regime, NAFO adopting the NEAFC management regime, NAFO developing a separate management regime in Division 1F in addition to the NEAFC regime, or a moratorium for fishing oceanic redfish in Division 1F for 2001. He concluded that an unregulated fishery was not a responsible management option for 2001.

Delegates expressed differing views on a preferred solution. The Chairman recognized that this was a complex issue that required additional time to develop a longer term, more definitive solution between NAFO and NEAFC. After extensive discussions, the Chairman concluded that some provisional, ad hoc solution was necessary for 2001 that does not prejudice either the interests of NAFO or NEAFC members, is consistent with the cooperation obligations of customary international law, and that recognizes due regard for the existing NEAFC management measures for this stock.

The Representative of Denmark (in respect of the Faroe Islands and Greenland) presented a draft proposal on behalf of Denmark, European Union, Iceland, Norway, and Russia on oceanic redfish for NAFO to adopt the same TAC and quotas as set by NEAFC for 2001 only. It was agreed that when the NAFO Conservation and Enforcement Measures will apply when vessels are fishing in Division 1F. The quota for Cooperating Non-Contracting Parties of 1,175t is available to Canada, Estonia, Latvia, Lithuania and Japan. It was also agreed that catches of oceanic redfish in the NAFO Convention Area are not to exceed 30,000t and will be deducted from the NEAFC quotas for 2001. Finally, it was agreed that vessels fishing in Division 1F would provide bi-weekly reports of catches taken by their vessels of this stock to the NAFO Executive Secretary and he shall notify without delay all Contracting Parties of the date on which, for this stock, accumulated reported catch taken by vessels of the Contracting Parties is estimated to equal 50 and then 100 per cent of the TAC for that stock. This arrangement is without prejudice to future sharing arrangements. It was agreed to insert a proposed preamble (FC Working Paper 01/7) into the text of the proposal.

The discussion revealed that nine Contracting Parties supported the proposal and four had concerns. The Representative of Estonia clarified that while he is not in favour of a TAC between two organizations, he supported the proposal in the interests of avoiding an overfishing situation in 2001. The Representative of Latvia stated that he could not support the proposal and proposed a moratorium until such time as scientific advice is available on the distribution of the stock. He also expressed reservations against the quota for Cooperating Non-Contracting Parties as Latvia is against any type of bloc quota allocations. The Representative of Lithuania had left the meeting prior to a decision on this proposal and stated that he would abstain if it were brought to a vote. The Representative of Ukraine expressed no strong objection to the proposal but proposed that other NAFO Parties should also have access to the 1,175t quota for Cooperating Non-Contracting Parties. The Representative of France (on behalf of Saint Pierre et Miquelon) associated itself with the proposal made by the Representative of Ukraine. The Fisheries Commission **adopted** the proposal in FC Working Paper 01/6 (Annex 4).

The Representative of Iceland stated that he supported the proposal despite having objecting to the NEAFC management measures for this stock for 2001. He explained that Iceland's objection to the NEAFC measures is based on the position that the measures should take into account that the ICES scientific advice recommended that the stock components, upper and lower layers, are

managed separately. Iceland however will support this ad hoc measure for 2001 as they believe that it does not raise the same concern regarding this issue and as they believe that the fisheries in Division 1F would only be conducted from one of the two stock components.

8. Other business

The Representative of Iceland stated the desire of his delegation that Division 1F redfish be discussed at the September 2001 annual meeting with respect to the NAFO requirements for observers and 130mm mesh size.

9. Adjournment

The Chairman adjourned the meeting at 1430 on 30 March 2001.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening by the Chairman, P. Gullestad (Norway)
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Evaluation of existing effort management system for shrimp in Division 3M
5. Possible establishment of a TAC for shrimp in Division 3M
6. Allocation of shrimp fishing opportunities among Contracting Parties in the NAFO Regulatory Area
7. Consideration of TAC and quotas for Oceanic Redfish in NAFO division 1F in 2001
8. Other business
9. Adjournment

Annex 3. Management Measures for Shrimp in Division 3M
(FC Doc. 01/5-Revised)

At the closing session of the Special Meeting in Copenhagen, Denmark, on March 30, 2001, the Fisheries Commission agreed to amend the NAFO Conservation and Enforcement Measures, Part I.G.4b) to read (amendment underlined):

"Each Contracting Party shall, in 2001, limit the number of fishing days by its vessels fishing for shrimp in Div. 3M to 75% of the maximum number of fishing days observed for their vessels in one of the years 1993; 1994 or 1995 (until 31 August 1995). However, for Contracting Parties with a track record in the period from 1 January 1993 to 31 August 1995, a minimum level of 400 fishing days is permitted."

Annex 4. Proposal re Oceanic Redfish in Div. 1F
(FC Doc. 01/4)

The management of Oceanic Redfish in 1F entails issues involving the reconciliation of conservation and enforcement measures for the stock in two adjacent convention areas (NAFO and NEAFC). In order to permit Contracting Parties adequate time to consider these issues, to ensure conservation of the stock and to facilitate fishing opportunities in 2001 without prejudice to the right of Contracting Parties to advance allocation arguments at future meetings of the NAFO Fisheries Commission, the Fisheries Commission adopts the following proposal:

1. Add the following column to the 2001 NAFO Quota Table:

	Oceanic Redfish ⁹
	Div. 1F
Denmark (in respect of Faroe Islands & Greenland)	24,169
European Union	13,883
Iceland ¹⁰	27,008
Norway	3,596
Poland	1,000
Russia	24,169
Canada	
Estonia	
Japan	1,175
Latvia	
Lithuania	
	95,000 ¹¹

Footnote 9: These quotas are set on the basis of the TAC of 95,000 tons established by NEAFC for 2001. Quantities taken in the NEAFC Convention Area shall be deducted from the quotas mentioned.

Footnote 10: Iceland has objected to the NEAFC management measures for oceanic redfish for 2001. Iceland will however limit its fisheries in the NAFO Regulatory Area to 27,008 tons in 2001.

Footnote 11: Each Contracting Party shall notify the Executive Secretary bi-weekly of catches taken by its vessels from this stock in Div. 1F. The Executive Secretary shall notify without delay all Contracting Parties of the date on which, for this stock, accumulated reported catch taken by vessels of the Contracting Parties is estimated to equal 15,000 tons and then 30,000 tons.

- This measure will not enter into force before NEAFC has established measures to the effect that catches of oceanic redfish in the NAFO Convention Area will be deducted from the NEAFC quotas for 2001.
- It is understood that when fishing in Division 1F, NAFO Conservation and Enforcement Measures will apply.
- Catches in Division 1F not to exceed 30,000 tons in 2001.
- This arrangement applies to 2001 only and is without prejudice to sharing arrangements for this stock in future years.

SECTION V
(pages 73 to 80)

**Report of the STACTIC Working Group to Overhaul
the NAFO Conservation and Enforcement Measures
1-3 May 2001
Ottawa, Canada**

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(Note: Annex 3 consisting of 115 pages has been distributed as a working paper to the heads of delegations of the General Council/Fisheries Commission and STACTIC Working Group only)

Report of the STACTIC Working Group to Overhaul the NAFO Conservation and Enforcement Measures

(FC Doc. 01/8)

**1-3 May 2001
Copenhagen, Denmark**

The Working Group met in accordance with the decision taken by the Fisheries Commission at the 22nd Annual Meeting, September 2000 (FC Doc. 00/21, Part I, item 3.27).

1. Opening of the Meeting

The meeting was opened by the Chairman, Mr. David Bevan (Canada), who welcomed delegates to Ottawa. A list of participants is attached (Annex 1).

2. Appointment of Rapporteur

Mr. R. Steinbock (Canada) was appointed as Rapporteur.

3. Adoption of Agenda

The agenda was adopted with the following addition, new agenda item 4 – "Process for Conducting Review" with consequential numbering changes to the remainder of the agenda (Annex 2).

4. Process for Conducting Review

The Chairman reviewed the mandate of the STACTIC Working Group as one of identifying the redundancies and inconsistencies in the current NAFO Conservation and Enforcement Measures (NCEM) and to provide a report to the Fisheries Commission by June 30, 2001. Delegates agreed that the purpose of the exercise was to identify these ambiguities to improve the coherence and overall comprehensibility of the text of the NCEM and not to develop or introduce new provisions.

After discussions on the substance of redundancies and inconsistencies under agenda item 5, the meeting revisited the process for conducting the review. It was agreed to take sufficient time for this exercise and that it was important not to mix this exercise with the usual STACTIC activity. The meeting agreed on the following two-step process to ensure that proposed changes to the text of the NCEM are carefully considered and tracked.

- 1) To transform STACTIC WG WP 01/01 Revised (Annex 3) by the NAFO Secretariat into a new document with the left column showing the reordered NCEM according to the agreed assignments as well as a sequential numbering of the current annexes, and a blank right column for comments for redrafting. It was estimated that this task could take two weeks. The Secretariat report and the Rapporteur's report would be sent to the Fisheries Commission by June 30.
- 2) To proceed with the project to revise the NCEM in concurrence of STACTIC/ Fisheries Commission at the 23rd Annual Meeting as follows:

- i) To designate a small drafting group to review the document for overall consistency and prepare a redraft to be sent to Contracting Parties. The Secretariat report would be sent electronically to this drafting group.
- ii) To convene an intersessional meeting of the drafting group during the October-December 2001 period to recommend changes to the text of the NCEM to improve its coherence for consideration by STACTIC W.G. in 2001, and by STACTIC and the Fisheries Commission during the Annual Meeting in 2002.

The meeting also considered a process to avoid the future introduction of Fisheries Commission decisions that may be inconsistent with the revision that is eventually adopted for the NCEM. It was recognized that one could not preclude ad hoc solutions that are sometimes developed in haste by the Fisheries Commission. The meeting agreed that there was a need for a process to integrate new provisions into a revised NCEM in a rational and consistent way. It was suggested that this could be achieved after the fact or before the fact through more careful consideration and formulation of proposals on where new provisions should properly fit. It was suggested that the above-noted drafting group recommend to the Fisheries Commission a link between the Fisheries Commission's decisions and subsequent integration of the measure(s) into the NCEM.

5. Identification of redundancies and inconsistencies in the NAFO Conservation and Enforcement Measures

Canada submitted a discussion document entitled "Proposed Changes to Conservation and Enforcement Measures". After an explanation of the format and content of the document, the meeting agreed to use the document to guide and facilitate its discussions.

Following a proposal by the EU, it was agreed to consider a table of contents which might be considered for reorganizing and restructuring the current NCEM. The meeting elaborated and agreed on the chapters and sub-items to be included in the table of contents. It was agreed to also include sections on introduction and scope as well as on definitions to cover the various terms currently defined in the NCEM. It was also agreed to streamline the various schedules and annexes under one category - Annexes and number them sequentially. The table of contents as agreed is contained in Annex 3.

The meeting considered the appropriate assignment of the provisions of the current NCEM and agreed on a notional reorganization of the NCEM according to the table of contents. This discussion resulted in a consensus text which is attached in STACTIC WG WP 01/01 Revised - "Inconsistencies/Redundancies in the NAFO Conservation and Enforcement Measures" (Annex 3). It was agreed that this document would also be headed with "Discussion Document Only". It was noted that some annexes may be redundant and no longer necessary but it was agreed to maintain the present text for further reflection. It was agreed that the assignment remains notional and may require further reflection by Contracting Parties.

6. Review to be submitted to the NAFO Secretariat

It was agreed that the document prepared by the NAFO Secretariat and the Rapporteur's Report would be submitted to the Fisheries Commission by June 30, 2001.

7. Other Business

There was no other business.

8. Adjournment

The meeting adjourned on Thursday, May 3, 2001 at 1040 am.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening by the Chairman, D. Bevan (Canada)
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Process for Conducting Review
5. Identification of redundancies and inconsistencies in the NAFO Conservation and Enforcement Measures
6. Review to be submitted to the NAFO Secretariat
7. Other business
8. Adjournment

SECTION VI
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**Report of the Working Group on Dispute
Settlement Procedures (DSP)
12-14 June 2001
Dartmouth, N.S., Canada**

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**Report of the Working Group on Dispute
Settlement Procedures (DSP)**
(GC Doc. 01/4)

**12-14 June 2001
Dartmouth, N.S., Canada**

The Working Group met in accordance with the decision taken by the General Council at the 22nd Annual Meeting, September 2000 (GC Doc. 00/7, Part I, item 4.7).

1. Opening of the Meeting

The Executive Secretary of NAFO opened the meeting at 11:00 June 12, 2001 by welcoming all delegations to Dartmouth, Nova Scotia. The following Contracting Parties were represented at the meeting: Canada, Denmark in respect of the Faroe Islands and Greenland, Estonia, the European Union, Iceland, Japan, Latvia, Lithuania, Norway and Russia (Annex 1).

2. Election of Chairman

The Executive Secretary of NAFO recalled that Mr. Stein Owe of Norway had resigned from his position as Chairman of the NAFO Working Group on Dispute Settlement Procedures at the 22nd Annual Meeting in September 2000, and submitted the matter of electing a new Chairman for discussion by the Working Group. A proposal was made for Friedrich Wieland of the European Union to act as Chairman at this session of the Working Group. This was supported by all present. It was suggested that the Working Group may wish to consider the election of Mr. E. Lemche of Denmark to chair future sessions of the Working Group, should such sessions be agreed.

3. Appointment of Rapporteur

Ms. Nadia Bouffard of Canada was appointed as Rapporteur.

4. Adoption of Agenda

The provisional Agenda was adopted (Annex 2).

5. Contracting Parties' ideas and presentations on NAFO DSP

The Chairman invited delegations to submit new ideas and make presentations on new developments relevant to Dispute Settlement Procedures in NAFO. The European Union tabled two working documents: the first was an abstract from the recommendations coming out of the Working Group on the Future of NEAFC (DSP W.G. W.P. 01/1)(Annex 3); the second was an abstract from the new SEAFO Convention (DSP W.G. W.P. 01/2) (Annex 4). The European Union presented the first paper by describing the successful outcome of discussions that took place in NEAFC in April 2001 to develop dispute settlement procedures for that organization. The European Union pointed out that NEAFC benefited from discussions of the NAFO Working Group on Dispute Settlement Procedures and the resulting NEAFC text was based in great part on the Consolidated Text of the NAFO Working Group on DSP. The European Union and other NEAFC Contracting Parties responded to questions on the NEAFC text.

6. Examination of the desirability and, as appropriate, the development of procedures for the settlement of disputes between NAFO Contracting Parties: (a) by implementing in the NAFO context, the 1995 UN Agreement and UNCLOS dispute settlement procedures, and (b) by including additional measures if needed

The Working Group agreed to use as a basis for its discussions the Consolidated Text (DSP W.G. W.P.00/10-Revised) (Annex 5) submitted to General Council during the 22nd Annual Meeting by the Working Group as Annex 12 to its Report of last year's meeting (G.C. Doc.00/4) The Chairman invited delegations to provide comments on the Consolidated Text on a clause by clause basis.

Motivation of objections

Delegations first agreed to renumber the existing paragraph 4 of Article XII of the NAFO Convention to paragraph 5, as a new paragraph 4 was proposed by the Text. They also agreed that the new paragraph 5 should be amended to add to the list of matters that the NAFO Executive Secretary must notify to other Contracting Parties the receipt of the statement of the reasons for the objection or notice and the receipt of the declaration of intent following the objection.

Discussion proceeded on whether the requirement to file a statement of reasons for the objection or notice and the declaration of intent following the objection should be triggered only upon request of a Contracting Party or whether it should be an automatic requirement when lodging an objection. While most delegations supported an automatic requirement as reflecting current practice in NAFO, both options were left in brackets in the final text pending an agreement on the whole paragraph. Most delegations also agreed that the statement and the declaration should be submitted at the same time as when lodging the objection under Article XII of the NAFO Convention, but an option permitting a delay was retained in square brackets pending an agreement on the whole paragraph.

The text under discussion contained two further groups of words in brackets. The first group related to the question of whether to include 'control and enforcement measures' as autonomous measures, which the objecting Contracting Party intends to take for the conservation and management of the fish stock concerned and for which it must provide a description in its declaration of intent. While some delegations believed that this terminology was redundant as being included in the terms "conservation and management measures", the point was made that these two sets of terms were inconsistently used in international fisheries instruments, including in the NAFO Convention, and that for greater certainty they should be included in the text, without brackets. The final draft text includes the words "including control and enforcement measures" without the brackets.

The second group of bracketed text relates to the question of whether to subject expressly the statement of reasons, the declaration of intent as well as the post objection behavior to the dispute settlement procedures. It was argued that the matters dealt with under the terms "disputes concerning the interpretation and application of this Convention" as used in paragraphs 2, 3 and 5 of the Consolidated text, include disputes relating to the post-objection behavior and thus it was redundant to make this express link. Some felt that an opposite argument could be made and instead of taking a risk, an express link should be made, by explicitly subjecting the statement, the declaration and the post objection behavior to dispute settlement procedures. While in the end, the text was left in brackets as some delegations did not agree with the bracketed text, most delegations indicated that should the explicit link be eventually maintained, it could be moved from this part of the text to the body of the dispute settlement procedures as being the better place for it. A Canadian proposal was tabled in this regard (DSP W.G. W.P. 01/5) (Annex 6),

suggesting moving this provision into paragraph 1 of the Dispute Settlement Procedures. The proposal generated a lot of discussion, particularly as regards the scope of disputes which may be covered by the mechanism under discussion. As no conclusions could be reached on the wording of the text that would be transferred to the body of the dispute settlement provisions and in which paragraph this text would be incorporated, the text was left as it was on this point, in brackets and under Article XII (4).

Dispute Settlement Procedures

Paragraph 1 – General principle – Cooperation to prevent disputes

This provision requires Contracting Parties to cooperate in order to prevent disputes. The provision received general consensus among participants.

Paragraph 2 – Means of settling disputes

This provision outlines the various means available to Contracting Parties to settle disputes. A proposal was made to amend paragraph 2 to better reflect the text of the 1982 UN Convention on the Law of the Sea and the 1995 UN Fish Agreement and help prevent any abuse of the consultative process. The text was revised accordingly.

Paragraph 3 – Ad hoc panel

Paragraph 3 provides a process to resolve disputes through an optional ad hoc panel. The procedural details, such as timelines for submitting the panel report, were removed from paragraph 3(1) and (2). It was agreed that such details should be reflected in procedures for the ad hoc panel process, to be discussed and attached to the text at a later stage.

Paragraph 4 – Provisional measures

Paragraph 4 deals with provisional measures that would apply, prior to and after the ad hoc panel process, pending the final resolution of the dispute. It was generally agreed that the parties to a dispute could agree to provisionally apply the Fisheries Commission's proposal that is the subject of the dispute, pending the outcome of the ad hoc panel process. It was further clarified that the panel outcome would consist of recommendations, and not of a report, as had previously been envisaged. The text was also amended to clarify that the parties to the dispute remain the masters of the process and can, at any time, halt the process by settling the dispute by other means.

The more contentious discussion on this paragraph concerned the provisional measures applicable after the ad hoc panel issues its recommendations. Two options were on the table for discussion from the last meeting. The first was for automatic provisional application of panel recommendations. The second allowed the parties to the dispute to agree to apply the panel recommendations on a provisional basis. Two proposals were tabled during the discussions: the first by Latvia (DSP W.G. W.P. 01/3) (Annex 7) and, drawing upon the former, a second one by the EU (DSP W.G. W.P. 01/6 which was further revised) (Annexes 8 and 9). Latvia proposed a third option, which provided for the agreement on provisional application of panel recommendations to be reached at the time of submitting the dispute to the panel.

Some delegations preferred automatic application of the panel recommendation on a provisional basis, as they viewed the voluntary application of the ad hoc panel recommendations as leading to abusive uses of the ad hoc panel process to stall resolution of disputes and causing costly delays. They stressed that the flexibility in the panel process existed in the requirement for an agreement

to use the panel process and that once Contracting Parties choose to use the ad hoc panel process, they should be bound to the panel's findings, at least on a provisional basis, until the resolution of the dispute through binding dispute settlement procedures.

Other delegations expressed the view that the panel procedure must remain voluntary and its outcome non-binding, as it would leave maximum flexibility and discretion to the parties who remain masters of the process, and thus would facilitate and encourage the use of the ad hoc panel process. A panel process that has a binding outcome would discourage Parties to revert to the panel process to resolve disputes.

Some delegations queried the implications of provisional application of the panel recommendations for proposals of the Fisheries Commission and ensuing rights of several NAFO Contracting Parties, some of which may not be parties to the dispute. It was felt that a process should provide for endorsement of the panel recommendations by all Members to the Fisheries Commission and this would preclude provisional application of the panel recommendations. Other delegations felt that discussions on this issue went beyond the mandate provided by General Council to the DSP Working Group.

The final text juxtaposes the three options for provisional measures pending final resolution of disputes through binding dispute settlement procedures. The first provides for automatic provisional application of panel recommendations unless the parties to the dispute otherwise agree or, at the request of one party, a court or tribunal prescribes other provisional measures. The second leaves it entirely at the discretion of the parties what applies on a provisional basis and this can be agreed at any stage of the process. The third provides that, at the time of the choice of the panel process, the parties may agree to apply the panel outcome on a provisional basis. Once the choice is made, parties are locked in. Finally, there was general consensus that provisional measures would cease to have effect when the court or tribunal to which the dispute has been referred to has taken a decision, whether final or provisional, or in any case, at the expiration of the Fisheries Commissions' proposal.

**Paragraph 5 – Binding dispute settlement procedures
and Paragraph 6 – Applicable Law**

Discussions on paragraphs 5 and 6 were inter-linked and vivid. Paragraph 5 outlines binding procedures, to which NAFO Contracting Parties may revert to resolve disputes. This is a compulsory process in that one party may trigger it. The outcome is binding on all parties to the dispute. Paragraph 6 indicates which law may be applied by a court, tribunal or other binding mechanism chosen under paragraph 5 to resolve the dispute.

The former text of paragraph 5 consisted of an import of the provisions related to dispute settlement procedures spelled out in Part XV of the 1982 UN Convention on the Law of the Sea and Part VIII of the 1995 UN Fish Agreement. The text of paragraph 6 referred to, as the applicable law, the relevant provisions of the NAFO Convention, the 1982 UN Convention on the Law of the Sea, the 1995 UN Fish Agreement as well as other generally accepted standards.

As Japan and Latvia are not parties to the 1995 UN Fish Agreement, these delegations re-stated their general reservations to having cross-references to this treaty in paragraphs 5 and 6. For the same reason, the delegations of Estonia, Latvia and Lithuania opposed references to the 1982 UN Convention on the Law of the Sea and the 1995 UN Fish Agreement. One of them indicated that any NAFO Dispute Settlement Procedures text that contained references to UNCLOS and the 1995 UN Fish Agreement would likely not be ratified by their government.

The Canadian delegation reiterated its earlier proposal (DSP W.G. W.P. 00/6) for a provisional application of the 1995 UN Fish Agreement to all NAFO Contracting Parties and to all NAFO stocks. The Canadian proposal was based on the objective of finding a mechanism which deals with the disputes in a comprehensive way, by developing procedures that would apply to all NAFO Contracting Parties on the same footing, to disputes concerning all NAFO stocks, and which would reflect the highest standards developed by the international community. The Canadian delegation stressed that UNCLOS and the 1995 UN Fish Agreement could not be broken up by cherry picking parts out, such as the dispute settlement procedures. These treaties were drafted as a whole, including the dispute settlement procedures, and they should be applied as a whole. It was further pointed out that while some experts are of the view that by cross-referencing the dispute settlement procedures of the 1995 UN Fish Agreement, it could be construed as bringing in the rest of the provisions of the Agreement, the opposite view also exists. The Canadian proposal sought to make it clear that the entire Agreement would apply to NAFO disputes. Among those delegations present at the meeting, there was not support for the Canadian proposal, which in the view of many delegations, went beyond the mandate of the Working Group.

Latvia submitted a new proposal for paragraphs 5 and 6 (DSP W.G. W.P. 01/4) (Annex 10), which was revised twice during the discussions. The proposal reflected Latvia's earlier suggestion that, in order to circumvent problems, which mere cross-references to UNCLOS and the 1995 UN Fish Agreement might cause for some Contracting Parties, provisions relating to the settlement of disputes set out in these treaties should be fully reproduced in a specific annex. This was the technique chosen for the final version of paragraph 5.

Discussion also took place on the bracketed text contained within paragraphs 5 and 6. One delegation requested both the deletion of the last sentence of paragraph 5, which indicates that the provisions set out in the two treaties referred therein apply to parties to the dispute whether they are parties to the treaties or not, as well as the addition of the term "if applicable" to paragraph 6 so as to reflect that these provisions should only apply to those States that have ratified these treaties. Most delegations opposed the suggested addition in paragraph 6. The Canadian delegation made the point that application of the two treaties in paragraph 5 and 6 should be cumulative and that this should be reflected by replacing the word "or" with "and". As this suggestion did not receive consensus, the words "or" and "and" were put in brackets. Finally, most delegations moved that the brackets be removed from the text in paragraph 6 to include as an objective for a court, tribunal or other binding mechanism assigned to resolve a dispute to consider the "optimum utilization" of the fish stocks concerned together with the conservation of such stocks. There was no consensus and the terms "optimum utilization" remained in brackets.

The final text contains a new paragraph 5, which specifies in a separate annex some of the dispute settlement procedures set out in Part XV of UNCLOS and in Part VIII of the 1995 UN Fish Agreement. The text of the annex (DSP W.G. W.P. 01/9) (Annex 11) was circulated at the end of the meeting but was not discussed. Paragraph 6 remains essentially the same as the previous version, except for explicit quotation of the exact titles of UNCLOS and the 1995 UN Fish Agreement. Both paragraphs remain in brackets, as does the Canadian proposal, which was included as an option to replace both paragraphs 5 and 6.

Delegations agreed to postpone discussions regarding the form of adoption of the text to a later stage. Some delegations indicated that the adoption of the text through an amendment to the NAFO Convention would be problematic. It was agreed that the reference to the form of adoption of the text that had been included at the beginning of the former text created some confusion and that, therefore, it was best left to a footnote for now.

As an attempt to summarise the outcome of the first round of discussions, the Chairman presented DSP W.G. W.P. 01/7. This draft text was later revised twice following the discussions in the Working Group. The final version of the text entitled "**Consolidated Text 2001**" (DSP W.G. W.P. 01/7 Revision 2) (Annex 12) contains text and alternatives in brackets and reflects the current state of agreement and views expressed within the Working Group to date.

At the end of the discussions, the European Union submitted its own version of a Dispute Settlement Procedures Text (DSP W.G. W.P. 01/10) (Annex 13). There were no discussions of this text. The European Union indicated that it may table this version as a possible compromise solution at the General Council Meeting during the NAFO Annual Meeting in September 2001.

7. Report to the General Council

Following the extensive discussions at this meeting, the Working Group agreed to recommend to the General Council that

- (a) it consider the Report of the Working Group;
- (b) it consider the Consolidated Text 2001 (Annex 12); and
- (c) it consider, as appropriate, possible future work in this field (including, if need be, the question of form and the issue of procedures concerning the constitution of the ad hoc panel).

8. Other Matters

No other matters were discussed.

9. Adjournment

The meeting was adjourned at 13:00 on June 14, 2001.

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Annex 2. Agenda

1. Opening of the Meeting (Executive Secretary)
2. Election of Chairman
3. Appointment of Rapporteur
4. Adoption of Agenda
5. Contracting Parties' ideas and presentations on NAFO DSP
6. Examination of the desirability and, as appropriate, the development of procedures for the settlement of disputes between NAFO Contracting Parties:
 - a) by implementing in a NAFO context, the 1995 UN Agreement and UNCLOS dispute settlement procedures, and
 - b) by including additional measures if needed.
7. Report to the General Council
8. Other Matters
9. Adjournment

**Annex 3. Abstract from the recommendation coming out of the
Working Group on the future of NEAFC (not yet adopted by NEAFC)
(DSP W.G. W.P. 01/1-Revised)**

Requirement to motivate objections

On request of any other Contracting Party, a Contracting Party which has presented an objection to a recommendation in accordance with Article 12 or given notice of its intention not to be bound by a measure in accordance with Article 13, shall within [...] days give a statement of the reasons for its objection or notice and a declaration of its intentions following the objection or notice, including a description of any alternative conservation and management measures which the Contracting Party intends to take or has already taken.

[could be introduced as a as new Article after Articles 12 and 13].

Settlement of disputes

[New Article x]

1. Contracting Parties shall co-operate in order to prevent disputes.
2. If any dispute arises between two or more Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall expeditiously consult among themselves with a view to resolving the dispute, or to having the dispute resolved by negotiation, inquiry, mediation, conciliation, *ad hoc* panel procedures, arbitration, judicial settlement or other peaceful means of their own choice.
3. Where a dispute concerns the interpretation or application of a recommendation adopted by the Commission pursuant to Articles 5, 6, 8 and 9 or matters related thereto, the parties to the dispute may submit the dispute to an *ad hoc* panel constituted in accordance with procedures adopted by the Commission. The panel shall at the earliest possible opportunity confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously. To this end, the panel shall present a report to the Parties concerned and through the Secretary to the other Contracting Parties. The report shall as far as possible describe any measures which the panel considers appropriate to resolve the dispute.

Where a dispute has not been resolved by way of the *ad hoc* panel procedure, it may be referred, on request of one of the Parties concerned, to a binding dispute settlement procedure as provided in paragraph 5.

4. Where the Parties to a dispute have agreed to submit the dispute to the *ad hoc* panel procedure, they may agree at the same time to apply provisionally the relevant recommendation adopted by the Commission until the report of the panel is presented or the dispute is resolved, whichever occurs first.

Pending the settlement of a dispute in accordance with paragraph 5, the Parties to the dispute shall apply provisionally any measure described by the panel pursuant to paragraph 3. That provisional application shall cease when the Parties to the dispute agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been referred in accordance with paragraph 5 has taken a provisional or definitive decision or, in any case, at the date of expiration of the recommendation of the Commission at issue.

5. Where a dispute has not been resolved by recourse to the means set out in paragraphs 2 and 3 within a reasonable time, one of the Parties to the dispute may refer the dispute to binding dispute settlement procedures. Such procedures shall be governed *mutatis mutandis* by the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea of 10 December 1982 (1982 UN Convention) or, where the dispute concerns one or more straddling stocks, by the provisions set out in Part VIII of the 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 of 4 August 1995 (1995 Agreement). The relevant parts of the 1982 UN Convention and the 1995 Agreement shall apply whether or not the Parties to the dispute are also Parties to these instruments.

6. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of the 1982 UN Convention, of the 1995 Agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law compatible with the said instruments, with a view to ensuring the conservation and optimum utilisation of the fish stocks concerned.

Annex 4. Abstract from SEAFO Convention
(DSP W.G. W.P. 01/2)

Article 23. DISPUTE SETTLEMENT

1. The Contracting Parties shall cooperate in order to prevent disputes.
2. If any dispute arises between two or more Contracting Parties concerning the interpretation or implementation of this Convention, those Contracting Parties shall consult among themselves with a view to resolving the dispute, or to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
3. In cases where a dispute between two or more Contracting Parties is of a technical nature, and the Contracting Parties are unable to resolve the dispute among themselves, they may refer the dispute to an ad hoc expert panel established in accordance with procedures adopted by the Commission at its first meeting. The panel shall confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.
4. Where a dispute is not referred for settlement within a reasonable time of the consultations referred to in paragraph 1 above, or where a dispute is not resolved by recourse to other means referred to in this Article within a reasonable time, such dispute shall, at the request of any party to the dispute, be submitted for binding decision in accordance with procedures for the settlement of disputes provided in Part XV of the 1982 Convention or, where the dispute concerns one or more straddling stocks, by provisions set out in Part VIII of the 1995 Agreement. The relevant part of the 1982 Convention and the 1995 Agreement shall apply whether or not the Parties to the dispute are also State Parties to these instruments.
5. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of the 1982 Convention, of the 1995 Agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law, compatible with the 1982 Convention and the 1995 Agreement, with a view to ensuring the conservation of the fish stocks concerned.

Annex 5. Settlement of Disputes within NAFO

CONSOLIDATED TEXT-2000 (DSP W.G. W.P. 00/10-Revised)

New Paragraph 4 of Article XII (If NAFO Dispute Settlement Procedures are not incorporated as amendments to the NAFO Convention this provision may possibly be adopted in another form.)

On request of any Contracting Party, a Member of the Fisheries Commission, which has presented an objection to a proposal in accordance with Article XII (1) or given notice of its intention not to be bound by a measure in accordance with Article XII (3), shall within [...] days give a statement of the reasons for its objection or notice and a declaration of its intentions following the objection or notice, including a description of any measures it intends to take or has already taken for the conservation and management [, including control and enforcement measures,] of the fish stock or stocks concerned. [The declaration and post-objection behaviour may be challenged through dispute settlement procedures.]

(New) Article...

1. Contracting Parties shall cooperate in order to prevent disputes.
2. If any dispute arises between two or more Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to resolving the dispute, or to having the dispute resolved by negotiation, inquiry, mediation, conciliation, *ad hoc* panel procedures, arbitration, judicial settlement or other peaceful means of their own choice.
3. Where a dispute concerns the interpretation or application of a proposal adopted by the Fisheries Commission pursuant to Article XI or matters related thereto, the parties to the dispute may submit the dispute to an *ad hoc* panel constituted in accordance with procedures adopted by the General Council. The Contracting Parties that so agree shall within [...] days of the notification of the dispute to the Executive Secretary proceed to an exchange of views concerning the constitution of the panel and the resolution of the dispute through the panel.

Where a dispute has been submitted to *ad hoc* panel procedures, the panel constituted in accordance with provisions adopted by the General Council shall at the earliest possible opportunity confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously. Within x weeks after being constituted the panel shall present a report to the Contracting Parties concerned and through the Executive Secretary to the other Contracting Parties. The report shall as far as possible include any recommendations which the panel considers appropriate to resolve the dispute.

Where a dispute has not been resolved through agreement between the Contracting Parties following the recommendations of the *ad hoc* panel it may be referred, on request of one of the Contracting Parties, to a binding DSP as provided in para. 5.

4. Where the parties to a dispute have agreed to submit the dispute to *ad hoc* panel procedures, they may agree at the same time to apply provisionally the relevant proposal adopted by the Commission until the report of the panel is presented or the dispute is resolved, whichever occurs first.

[Pending the settlement of a dispute according to para. 5 the parties to the dispute shall, if one of these Contracting Parties so desire, apply provisionally any recommendation made by a panel where the Contracting Parties had agreed an *ad hoc* panel procedure.] *or* [The parties to a dispute may agree to apply provisionally any recommendation made by a panel pending the settlement of the dispute according to para 5.] That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been submitted in accordance with para 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

[5. If the Contracting Parties do not agree to any other peaceful means to resolve a dispute, or no settlement has been reached by recourse to these means, the dispute shall be referred, if one of the Contracting Parties concerned so requests, to binding dispute settlement procedures. Such procedures concerning the interpretation and application of this Convention shall be governed *mutatis mutandis* by the provisions relating to the settlement of disputes set out in Part XV of United Nations Convention on the Law of the Sea of 10 December 1982 (1982 UN Convention) or[, where the dispute concerns one or more straddling stocks,] by the provisions set out in Part VIII of 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 of 4 August 1995 (1995 UN Agreement)[, whether or not the parties to the dispute are also State parties to these instruments].]

[6. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of the instruments referred to in para. 5, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the said instruments, with a view to ensuring the conservation [and optimum utilization] of the fish stocks concerned.]

OR (instead of 5 and 6)

[A Contracting Party may refer any dispute concerning the interpretation or application of the Convention to DSP.

The Contracting Parties agree to apply the 1995 UN Agreement provisionally both to straddling stocks and discrete stocks that occur in the NAFO Regulatory Area, whether or not the Contracting Parties are party to the Agreement.]

Annex 6. Working Paper by Canada
(DSP W.G. W. P. 01/5)

Add to paragraph 1:

“For greater certainty, in this Article, disputes include disputes concerning the statement, declaration and post-objection behaviour referred to in Paragraph (4) of Article XII of the NAFO Convention.”

Annex 7. Proposal by Latvia
(DSP W.G. W.P. 01/3)

Re item 4 of CONSOLIDATED TEXT
(DSP W.G. W.P. 00/10-Revised)

4. Where the parties to a dispute have agreed to submit the dispute to ad hoc panel procedures, they may agree at the same time to apply provisionally:
 - 4.1 the relevant proposal adopted by the Commission until the recommendations of the panel are presented and the dispute is resolved by applying these recommendations.
 - 4.2 the recommendations made by a panel pending the settlement of a dispute according to para 5

That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been submitted in accordance with para 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

Annex 8. Proposal by the European Union
(DSP W.G. W.P. 01/6)

Re item 4 of Consolidated Text

4. Where the parties to a dispute have agreed to submit the dispute to *ad hoc* panel procedures, they may agree at the same time to apply provisionally the relevant proposal adopted by the Commission until the recommendations of the panel are presented and the dispute is resolved following these recommendations or the dispute is resolved by other means, whichever occurs first.

Pending the settlement of a dispute in accordance with paragraph 5, the parties to the dispute shall apply provisionally any recommendation made by the panel pursuant to paragraph 3. That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been referred in accordance with paragraph 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

Annex 9. Proposal by the European Union
(DSP W.G. W.P. 01/6-Revision 1)

Re item 4 of Consolidated Text

4. Where the parties to a dispute have agreed to submit the dispute to *ad hoc* panel procedures, they may agree at the same time to apply provisionally the relevant proposal adopted by the Commission until the recommendations of the panel are presented or the dispute is resolved by other means, whichever occurs first.

Pending the settlement of a dispute in accordance with paragraph 5, the parties to the dispute shall apply provisionally any recommendation made by the panel pursuant to paragraph 3. That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been referred in accordance with paragraph 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

Annex 10. Proposal by Latvia
(DSP W.G. W.P. 01/4, Revision 2)

Re items 5 and 6 of CONSOLIDATED TEXT
(DSP W.G. W.P. 00/10-Revised)

5. If the Contracting Parties do not agree to any other peaceful means to resolve a dispute, or no settlement has been reached by recourse to these means, the dispute shall be referred, if one of the Contracting Parties concerned so requests, to binding dispute settlement procedures specified in the Annex ... to this Convention.

6. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of United Nations Convention on the Law of the Sea of 10 December 1982 (1982 UN Convention) or [, where the dispute concerns one or more straddling stocks,] of 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 of 4 August 1995 (1995 UN Agreement), as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the said instruments, with a view to ensuring the conservation [and optimum utilization] of the fish stocks concerned.

Annex 11. Annex ... to the Convention
(DSP W.G. W.P. 01/9)

For the purpose of the dispute settlement procedures referred to in Article ..., paragraph 5, of this Convention, the following extracts apply:

- I. From the United Nations Convention on the Law of the Sea of 10 December 1982:

SECTION 2. COMPUSLORY PROCEDURES ENTAILING BINDING
DECISIONS

Article 286

Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287

Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

- (a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;
- (b) the International Court of Justice;
- (c) an arbitral tribunal constituted in accordance with Annex VII;
- (d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288
Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289
Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290
Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Sea-Bed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291

Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 292

Prompt release of vessels and crews

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within 10 days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.

2. The application for release may be made only by or on behalf of the flag State of the vessel.

3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.

4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

Article 293
Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.
2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294
Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or its *prima facie* unfounded, it shall take no further action in the case.
2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.
3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

Article 295
Exhaustion of local remedies

Any dispute between States Parties concerning the interpretation or application of this Convention may be submitted to the procedures provided for in this section only after local remedies have been exhausted where this is required by international law.

Article 296
Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.
2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

- II. From 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 of 4 August 1995 :

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply *mutatis mutandis* to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.
2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply *mutatis mutandis* to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.
3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.
4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.
5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Annex 12. Consolidated Text 2001
(DSP W.G. W.P. 01/7-Revision 2)

Motivation of objections

New Paragraph 4 of Article XII

[On request of any Contracting Party, a] [Any] Commission member which has presented an objection to a proposal under paragraph 1 or given notice of its intention not to be bound by a measure under paragraph 3, shall [within [...] days] give a statement of the reasons for its objection or notice and a declaration of its intentions following the objection or notice, including a description of any measures it intends to take or has already taken for the conservation and management, including control and enforcement measures, of the fish stock or stocks concerned. [The statement, declaration and post-objection behaviour may be challenged through dispute settlement procedures.]

Existing paragraph 4 will become paragraph 5 with the following insertion:

- d) the receipt of each statement and declaration under paragraph 4

Dispute Settlement Procedures

(New) Article...

1. Contracting Parties shall cooperate in order to prevent disputes.
2. If any dispute arises between two or more Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties have the obligation to settle their dispute by negotiation, inquiry, mediation, conciliation, *ad hoc* panel procedures, arbitration, judicial settlement or other peaceful means of their own choice.
3. Where a dispute concerns the interpretation or application of a proposal adopted by the Fisheries Commission pursuant to Article XI or matters related thereto, the parties to the dispute may submit the dispute to an *ad hoc* panel constituted in accordance with procedures adopted by the General Council.

Where a dispute has been submitted to *ad hoc* panel procedures, the panel shall at the earliest possible opportunity confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously. The panel shall present a report to the Contracting Parties concerned and through the Executive Secretary to the other Contracting Parties. The report shall as far as possible include any recommendations which the panel considers appropriate to resolve the dispute.

Where a dispute has not been resolved through agreement between the Contracting Parties following the recommendations of the *ad hoc* panel it may be referred, on request of one of the Contracting Parties, to a binding dispute settlement procedure as provided in paragraph 5.

4. Where the parties to a dispute have agreed to submit the dispute to *ad hoc* panel procedures, they may agree at the same time to apply provisionally the relevant proposal adopted by the

Commission until the recommendations of the panel are presented, unless the parties have settled the dispute beforehand by other means.

[Pending the settlement of a dispute in accordance with paragraph 5, the parties to the dispute shall apply provisionally any recommendation made by the panel pursuant to paragraph 3.] *or* [The parties to a dispute may agree to apply provisionally any recommendation made by a panel pending the settlement of the dispute according to paragraph 5.] *or* [When submitting the dispute to an *ad hoc* panel, the parties to the dispute may agree at the same time to apply provisionally any recommendation made by the panel pending the settlement of the dispute according to paragraph 5.] That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been submitted in accordance with paragraph 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

[5. If the Contracting Parties do not agree to any other peaceful means to resolve a dispute, or no settlement has been reached by recourse to these means, the dispute shall be referred, if one of the Contracting Parties concerned so requests, to binding dispute settlement procedures specified in the Annex ... to this Convention.]

[6. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of United Nations Convention on the Law of the Sea of 10 December 1982 [or, where the dispute concerns one or more straddling stocks,] [and] of 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 of 4 August 1995, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the said instruments, with a view to ensuring the conservation [and optimum utilization] of the fish stocks concerned.]

or (instead of 5 and 6)

[A Contracting Party may refer any dispute concerning the interpretation or application of the Convention to DSP.

The Contracting Parties agree to apply the 1995 UN Agreement provisionally both to straddling stocks and discrete stocks that occur in the NAFO Regulatory Area, whether or not the Contracting Parties are party to the Agreement.]

Note: *The question of the form, by way of which these texts can be introduced, e.g. by way of an amendment to the NAFO Convention or any other suitable instrument including a protocol, is still to be determined.*

Annex 13. Proposal by the European Union
(DSP W.G. W.P. 01/10)

Motivation of objections

New Paragraph 4 of Article XII

Any Commission member which has presented an objection to a proposal in accordance with paragraph 1 or given notice of its intention not to be bound by a measure in accordance with paragraph 3, shall give a statement of the reasons for its objection or notice and a declaration of its intentions following the objection or notice, including a description of any measures it intends to take or has already taken for the conservation and management, including control and enforcement measures, of the fish stock or stocks concerned.

Existing paragraph 4 will become paragraph 5 with the following insertion:

- d) the receipt of each statement and declaration under paragraph 4.

Dispute Settlement Procedures

(New) Article...

1. Contracting Parties shall cooperate in order to prevent disputes.
2. If any dispute arises between two or more Contracting Parties concerning the interpretation or application of this Convention, including the statement, declaration and measures referred to in paragraph 4 of Article XII, those Contracting Parties shall consult among themselves with a view to resolving the dispute, or to having the dispute resolved by negotiation, inquiry, mediation, conciliation, *ad hoc* panel procedures, arbitration, judicial settlement or other peaceful means of their own choice.
3. Where a dispute concerns the interpretation or application of a proposal adopted by the Fisheries Commission pursuant to Article XI or matters related thereto, including the statement, declaration and measures referred to in paragraph 4 of Article XII, the parties to the dispute may submit the dispute to an *ad hoc* panel constituted in accordance with procedures adopted by the General Council.

Where a dispute has been submitted to *ad hoc* panel procedures, the panel shall at the earliest possible opportunity confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously. The panel shall present a report to the Contracting Parties concerned and through the Executive Secretary to the other Contracting Parties. The report shall as far as possible include any recommendations which the panel considers appropriate to resolve the dispute.

Where a dispute has not been resolved through agreement between the Contracting Parties following the recommendations of the *ad hoc* panel it may be referred, on request of one of the Contracting Parties, to a binding dispute settlement procedure as provided in paragraph 5.

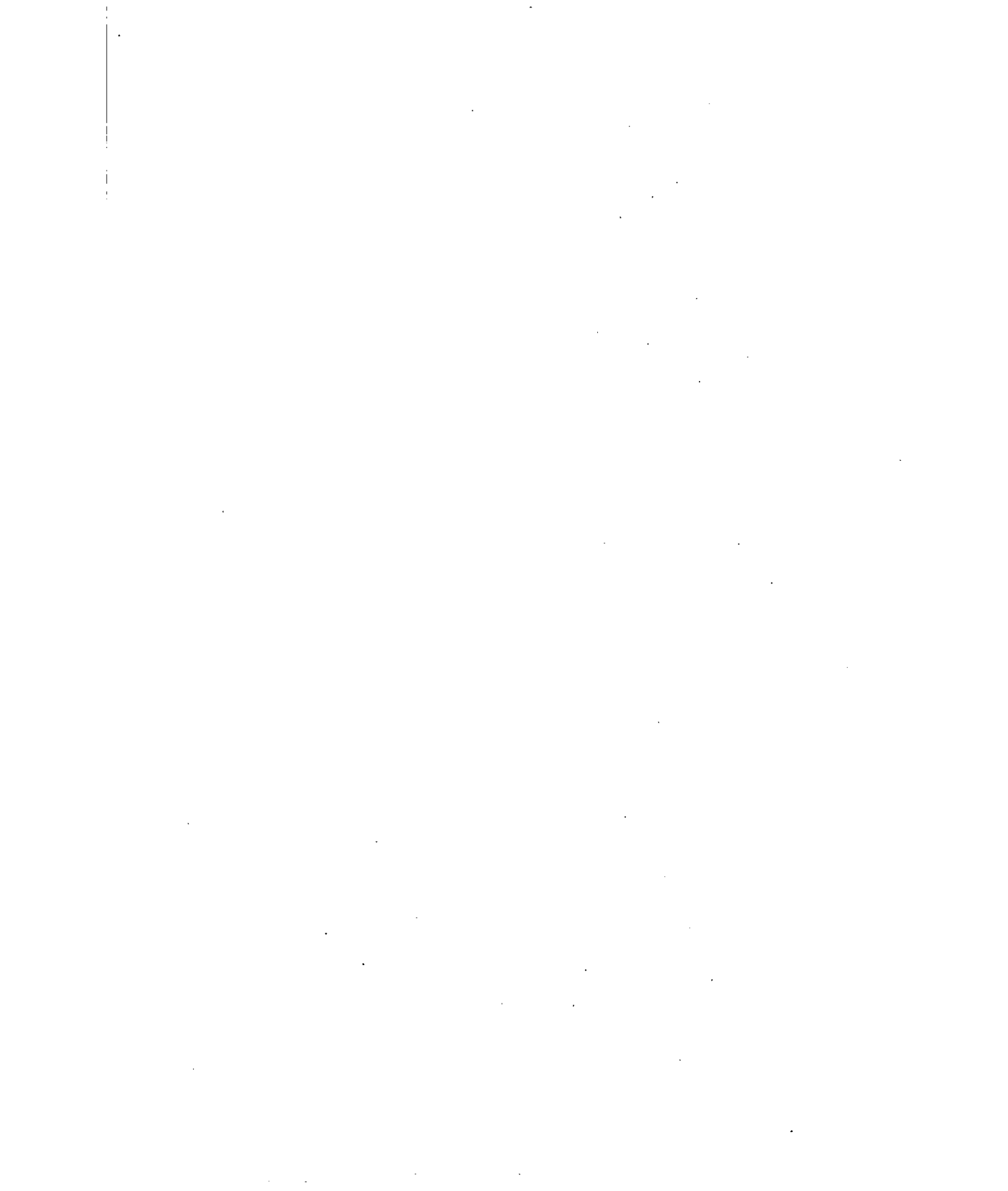
4. Where the parties to a dispute have agreed to submit the dispute to *ad hoc* panel procedures, they may agree at the same time to apply provisionally the relevant proposal adopted by the

Commission until the recommendations of the panel are presented, unless the parties have settled the dispute beforehand by other means.

Pending the settlement of a dispute in accordance with paragraph 5, the parties to the dispute shall apply provisionally any recommendation made by the panel pursuant to paragraph 3. That provisional application shall cease when the Contracting Parties agree on arrangements of equivalent effect, when a court or tribunal to which the dispute has been referred in accordance with paragraph 5 has taken a provisional or definitive decision or, in any case, at the date of expiration, if applicable, of the proposal of the Fisheries Commission.

5. If the Contracting Parties do not agree to any other peaceful means to resolve a dispute, or no settlement has been reached by recourse to these means, the dispute shall be referred, if one of the Contracting Parties concerned so requests, to binding dispute settlement procedures specified in the Annex ... to this Convention.

6. A court, tribunal or panel to which any dispute has been submitted under this Article shall apply the relevant provisions of this Convention, of United Nations Convention on the Law of the Sea of 10 December 1982 or, where the dispute concerns one or more straddling stocks, of 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 of 4 August 1995, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the said instruments, with a view to ensuring the conservation and optimum utilization of the fish stocks concerned.



SECTION VII
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26-28 June 2001
Halifax, N.S., Canada**

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**Report of the Standing Committee on
International Control (STACTIC)**
(FC Doc. 01/10)

**26-28 June 2001
Halifax, N.S., Canada**

STACTIC met in accordance with the decision taken by the Fisheries Commission at the 22nd Annual Meeting, September 2000 (FC Doc. 00/21, Part I, item 3.28).

1. Opening of the Meeting

The Chairman, Mr. David Bevan (Canada), opened the meeting at 10.10 on 26 June 2001. Representatives from the following Contracting Parties were present: Canada, Denmark (in respect of the Faroe Islands and Greenland), Estonia, the European Union, Iceland, Japan, Norway, Russian Federation and the United States. A list of participants is given at Annex 1.

2. Appointment of Rapporteur

Mr. Wayne Evans (Canada) was appointed rapporteur.

3. Adoption of the Agenda

Following the addition to the agenda of three sub-items under "Other matters" by the representative of the European Union and one agenda item by the Secretariat re Automated System/VMS update (Mr. Engesaeter-Consultant), it was agreed to adopt the agenda as amended (Annex 2).

4. Report by NAFO Consultant on the NAFO Secretariat Automated System/VMS update

Mr. Engesaeter gave a brief update on the steps being taken by the selected Provider, Trackwell of Iceland, and the Secretariat to implement, as per Fisheries Commissions instructions, a VMS data system by July 1, 2001. The contract with the provider was signed June 22, 2001 and after a delay of one week due to the new version of Unix and shipping difficulties, installation will go ahead during the first week of July, 2001. No further delays are anticipated. The Chairman thanked Mr. Engesaeter for his work to date on this project.

5. Consideration of possible measures for protection of juvenile fish

The representative from Canada indicated that Canada would be presenting four proposals for possible measures to improve protection of juvenile fish.

In introducing the first proposal regarding depth restrictions relating to the Greenland halibut fishery, the representative from Canada called upon Dr. David Kulka, Canada, to give a presentation on the relationship between water depth and the size of Greenland halibut. This presentation, which had also been given at the June, 2001 meeting of the Scientific Council, demonstrated that there is a higher relative abundance of juvenile Greenland halibut in shallower water, i.e. less than 700 meters.

The representative of Canada proceeded to review the recommendations made by the Scientific Council in 1999 and 2000 regarding the need for STACTIC to examine proposals for the

protection of juvenile fish. The first Canadian proposal (STACTIC W.P. 01/1) is to implement a depth restriction prohibiting the fishing of Greenland halibut at depths less than 700m. The analysis presented by the Canadian representative indicated that such a restriction would be effective in minimizing the capture of juvenile fish but would not place undue hardship on the viability of the Greenland halibut fishery. Canada provided 47 coordinates to delineate the 700m depth contour in 3LMNO.

The representative of the European Union indicated that it was necessary to determine whether, and to what extent, problems concerning both outtake of juvenile fish as well as bycatches of moratoria species existed. He also pointed out that the Scientific Council has not yet replied to a request for advice on the distribution of fishable biomass of Greenland halibut in different depth strata. He considered this advice to be necessary for the determination of further action. He also queried whether the proposed coordinates were meant to be a sanctuary, how mixed fisheries, in waters depths above 700m would be dealt with and how a possible depth restriction could be adequately controlled. The representative from Japan noted that there is insufficient scientific advice to support the proposed depth restrictions. He added that measures aimed at the protection of fish must be balanced by practical considerations relating to the viability of commercial fisheries.

The representative of the United States expressed general support for the Canadian proposal but noted that further discussions with the rest of the U.S. delegation to review the coordinates would be required prior to the September meeting.

The Chairman concluded the discussion by suggestion that this issue is scheduled to be discussed by the Scientific Council and that they will review the distribution of Greenland halibut in different depth strata early in the week of the annual meeting so that their advice will be available to STACTIC during its meeting. It was agreed that the depth restriction proposal would be revisited by STACTIC at the next annual meeting in September 2001.

The second Canadian proposal (STACTIC W.P. 01/5) dealt with a possible enhancement of the closed area for the 3M shrimp fishery. Canada's initial proposal had been to expand the current 3M shrimp closure from the 300m depth contour to the 450m depth contour and to extend the closure from the current June 1 to September 30 to a year round closure. Recognizing that this would require a major alteration to current fishing activity, however, Canada amended its proposal to one that would retain the coordinates of the current closed area while extending the time period of the closure to the entire year.

The Norwegian representative indicated that he was encouraged by the amended Canadian proposal, as it would have less severe implications than the original proposal. He indicated, however, that while Norway may be able to agree to a longer closed period, they are not prepared to support a year-round closure at this time. He also enquired the possible meaning of "juvenile shrimp", and suggested that it could be appropriate to introduce a minimum size for shrimp. The representative from Denmark agreed with the Norwegian position on this issue. He also suggested that the possible use of a second sorting grid should be examined as an option to reduce the capture of juvenile shrimp.

The Chairman agreed that further debate is required regarding both fishing gear selectivity in the shrimp fishery and the length of the closure period for the closed area. He asked that Contracting Parties review these issues, including consultations with the fishing industry, and be prepared to further discuss this issue at the September, 2001 STACTIC meeting.

The third Canadian proposal dealt with the possible creation of a closed area on the Southeast Shoal area of the Grand Bank in Division 3N. This area has been identified by the Scientific Council as a nursery area for 3NO cod, 3LNO American plaice, 3LNO yellowtail flounder and 3NO witch flounder. The Canadian representative indicated that there is increasing evidence that some vessels are conducting directed fisheries for moratoria species in the proposed nursery area.

The European Union questioned whether the closure proposed by Canada would apply to all fisheries. Canada confirmed that that would be the case.

The representative of the United States supported the proposal in principle but suggested further study by the Scientific Council might be warranted.

The representatives of the European Union and Japan noted that the Scientific Council had not made a recommendation with respect to an area closure. The representative from Canada acknowledged this but stated that the Scientific Council had only been asked to provide advise regarding the distribution of juvenile fish and had not been asked to comment on the appropriateness of an area closure.

The representative from the European Union stated that there are still many uncertainties regarding the Canadian proposal and that this matter should not be treated as an isolated matter. He also stated that the direction from the Fisheries Commission to STACTIC was to review options for the protection of juvenile Greenland halibut, not other species. The representative of Canada disagreed with this interpretation and quoted from the Fisheries Commission report from the 21st annual meeting which stated that "STACTIC shall review all management options by which catches of juvenile fish can be reduced..."

The Chairman suggested that the Fisheries Commission could be asked to consider the nature of the debate at STACTIC in September and, at their discretion, take a decision or provide further direction to STACTIC on this issue.

The fourth Canadian proposal related to the minimum mesh size for groundfish fisheries. The Canadian representative indicated that Canada, as the coastal state, increased its minimum otter trawl mesh size to 145mm in the mid 1990s. The Canadian proposal was that the minimum mesh size for groundfish trawls in the NAFO Regulatory Area be increased from 130mm to 145mm when fishing at depths less than 700 meters to allow for increased escapement of juvenile Greenland halibut and cod. After discussions Canada later agreed to withdraw this proposal from consideration at this meeting.

6. Restriction and regulation of by-catch of moratoria species

The representative from Canada presented a proposal relating to the possible adoption of new measures to protect flounder species and species under moratoria in the skate fishery, where these species are taken and reported as incidental catch. He reviewed the findings of the Scientific Council regarding the need to protect juveniles and reduce bycatch. He also presented data to demonstrate that vessels using larger mesh size (270-305mm) can effectively fish for skate while avoiding incidental catches of flounder. On the other hand, vessels using 130mm mesh experience excessive incidental catches of moratoria species. He expressed the opinion that information from observer reports could be seen as evidence that some vessels using 130mm mesh in the skate fishery are actually directing for moratoria species. He also noted that catches of moratoria species far exceed the 5% limit both on a daily basis and an overall trip basis.

The Canadian proposal calls for the establishment of a minimum mesh size for skate of 305mm for the cod-end and 254mm for all other parts of the trawl.

The representative from the European Union stated that more analysis is required to determine whether or not there is a real problem with excessive by-catches of moratoria species at this time. He noted that new measures were put into place in 2000 to deal with the incidental catch issue. These measures require vessels to move to a new fishing area when incidental catches exceed the specified limits. He stated that the effectiveness of these measures should be reviewed before serious consideration can be given to the adoption of new measures to deal with the same issue. The representative of Japan agreed on this point.

The representative from Denmark (in respect of the Faroe Islands and Greenland) questioned why the Canadian proposal specifies two mesh sizes, one for the cod-end and another for the rest of the trawl. The Canadian representative responded that requiring 305mm in the entire trawl would significantly affect the catch of skate due to escapement in the wings of the trawl and that the proposed mesh sizes have proven effective in reducing by-catch without reducing skate catch.

The representative of the European Union stated that while the objective of the Canadian proposal is laudable, the rationale behind the particular mesh sizes (305mm and 254mm) proposed is not clear. The representative from Canada responded by stating that the proposed mesh sizes were selected on the basis of test conducted by Canadian vessels in the mid 1990's. He undertook to provide copies of the test reports to the NAFO Secretariat for distribution to the Contracting Parties.

The representative of the United States expressed support in principle for the Canadian proposal but stated that they would like to review the reports on tests conducted by Canada before making a final judgment.

The representative of Russia questioned whether the Canadian proposal would apply only to trawl fisheries. The Canadian representative stated that while only trawl fisheries are currently being conducted in the NRA, in Canadian waters the proposed mesh sizes apply to both trawl and gillnet fisheries.

The Chairman suggested that since there was no consensus reached regarding the Canadian proposal, and as the Canadian information will be provided after this Meeting, this issue could be revisited at the next annual meeting of STACTIC in September. This was agreed to.

7. Confidential treatment of the electronic reports and messages transmitted to the NAFO Secretariat

The representative of Denmark (in respect of the Faroe Islands and Greenland) introduced STACTIC Working Paper 00/19 regarding the confidentiality and security of electronic haul reports and messages.

The representatives of the European Union, Norway, Iceland, and Russia stressed the importance of confidentiality and indicated support for the Denmark proposal. The representative of Norway however noted that the current draft of the working paper would not allow Contracting Parties that do not have an inspection presence in the NRA to have access to port inspection reports.

The representative from Canada questioned whether fishing vessel position information would be provided to Contracting Parties conducting surveillance prior to the actual arrival of the surveillance platform in the NRA. He emphasised that access to this information is essential for

effective planning of patrol activities. Other Contracting Parties indicated that the Canadian concerns can be accommodated under a model similar to the one currently employed in NEAFC.

The Canadian representative indicated that he will reserve judgement on the Denmark proposal pending a visit of Canadian representatives to the NEAFC headquarters for a review of the NEAFC system (to be completed prior to the September 2001 NAFO meeting).

The representative of Denmark agreed to review STACTIC Working Paper 00/19 based on the comments received at this meeting and to submit a revised proposal at the September meeting.

8. Program for Observers and Satellite Tracking for shrimp in Division 3M

The representative of Iceland introduced STACTIC Working Paper 01/8 (Ideas for an alternative observer program regarding shrimp fisheries in Division 3M). He reviewed Iceland's reasons for objecting to 100% observer coverage and invited other Contracting Parties to comment on the alternative observer program proposed in the Icelandic working paper

The representative of Norway concurred with Iceland's view that 100% observer coverage was not necessary in the 3M shrimp fishery.

The representative of the European Union stated that observers and VMS are to be reviewed over the coming year with possible changes to be implemented by 2003. He emphasized the need for a systematic review and cautioned against isolated exceptions for different fisheries.

The representative from Denmark noted that there have been difficulties in ensuring that bycatch is recorded correctly in the shrimp fishery and there have also been problems with highgrading. These issues are best dealt with by observers. The representative from Iceland responded by noting that bycatch information from Icelandic observers has been provided to the Scientific Council and that this data indicates very low bycatches in the shrimp fishery.

The representative of Canada stated that Canada is willing to examine any proposals that might lead to improved compliance. He noted however that a number of issues are not addressed by the Icelandic proposal, e.g. analysis of the 20% coverage level, procedures for the comparison of observed and non-observed vessels, measures to prevent unobserved shrimp vessels from participating in other fisheries and sanctions to deal with non-compliance.

The Representative of Iceland indicated that Iceland will be submitting a formal proposal regarding an alternative observer program at the September annual meeting.

9. Report to the Fisheries Commission

It was agreed that this Report with relevant working papers and the annexes would form the report to the Fisheries Commission.

10. Other matters

a) The use of observer information for scientific purposes

The representative of the European Union referred to Scientific Council document 00/23 (Harmonized NAFO Observer Program Data System Proposal) which was adopted by the Fisheries Commission in 2000. He stated that certain elements of this document need to be revisited, e.g. confidentiality and identification of data elements required for scientific purposes.

The representative of the European Union also referred to STACTIC Working Paper 00/10 (NAFO Observer Manual Proposal by the European Union) that was presented at the June, 2000 meeting of STACTIC. He expressed the view that there continues to be the clear need for an observer manual which would include details on a working schedule for observers, electronic data flow to the NAFO Secretariat and scientific data requirements. After some discussion the representative of the EU stated that the European Union will review this issue and will submit proposed amendments to SCS 00/23 at the September annual meeting. The European Union may also submit a proposal for an observer manual.

b) Chartering arrangements

The representative of the European Union expressed concerns about the current chartering arrangement and stated that it was the position of the European Union that the pilot project should not continue beyond the current year. He stressed that, in principle, there should be a genuine link between the vessel and the quota beneficiary. Furthermore the 100 days of 3M shrimp should in no case be transferable.

The representative of Norway agreed with the European Union's general concern and added that the effort allocation scheme for shrimp was not meant to allow Contracting Parties with no track record in the shrimp fishery to sell or barter the 100 days of 3M shrimp fishing effort for business purposes. The allocation of 100 days was to allow Contracting Parties to participate and develop a shrimp fishery. Iceland agreed with the Norwegian observation regarding chartering arrangements in the 3M shrimp fishery.

c) Report of the STACTIC Working Group to overhaul the NAFO Conservation and Enforcement Measures

The representative of the European Union thanked Canada for the meeting in Ottawa from May 1-3, 2001 saying it was a good meeting with tangible results. He asked the Secretariat to make copies of STACTIC W.G. W.P. 01/1- Inconsistencies/Redundancies in the NAFO Conservation and Enforcement Measures available to all Contracting Parties, some of which were not represented at the Ottawa meeting. The Chairman noted that STACTIC will be asked to validate the framework during the meeting in September, 2001. He hoped that all Contracting Parties would review the document W.G. W.P. 01/1 and be prepared to accept it or offer suggestions on improvements to the framework and how to proceed with the project.

11. Adjournment

The Report was adopted by STACTIC, and the meeting adjourned at 10.10 on 28 June 2001.

Annex 1. List of Participants

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Annex 2. Agenda

1. Opening of the meeting (D. Bevan, Canada)
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Report by NAFO Consultant on the NAFO Secretariat Automated System/VMS update
5. Consideration of possible measures for protection of juvenile fish
6. Restriction and regulation of by-catch in Greenland halibut fishery
7. Confidential treatment of the electronic reports and messages transmitted to the NAFO Secretariat
8. Program for observers and satellite tracking for shrimp in Division 3M
9. Report to the Fisheries Commission
10. Other matters
 - a) The use of observer information for scientific purposes
 - b) Chartering arrangements
 - c) Report of the STACTIC Working Group to overhaul the NAFO Conservation and Enforcement Measures
11. Adjournment



SECTION VIII
(pages 127 to 140)

Report of the General Council
23rd Annual Meeting
17 September 2001
Varadero, Cuba

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Report of the General Council

(GC Doc. 01/5)

17 September 2001

Varadero, Cuba

- 1.1 In accordance with the announcements of the 23rd Annual Meeting and the Provisional Agenda circulated to Contracting Parties, the meeting was opened by the NAFO President and Chairman of the General Council, Enrique Oltuski (Cuba), at 1500 hr on 17 September 2001.
- 1.2 The Chairman welcomed everyone to Cuba.
- 1.3 The Representatives of nine (9) Contracting Parties were present: Cuba, Denmark (in respect of the Faroe Islands and Greenland-DFG), Estonia, Japan, Latvia, Lithuania, Poland, Russia, and Ukraine (Annex 1).

Observers were present from FAO, Mr. D. J. Doulman and, from South East Atlantic Fisheries Organization (SEAFO), Mr. S. Kashindi. Mr. Doulman presented the statement by FAO to the Meeting (Annex 2).
- 1.4 The Chairman noted there was no quorum to hold a General Meeting of NAFO at this time. He announced the Secretariat (T. Amaratunga, Assistant Executive Secretary) will record the activities of this meeting and the outcome will be communicated to Contracting Parties at earliest practical time for considerations for future activities and decisions.
- 1.5 The Chairman noted the extra-ordinary situation with respect to conducting this meeting, and proposed that he would say a few words of introduction and ask the delegations present to give their views. Heads of delegations expressed their opinions. The delegation of Denmark (DFG) presented its written statement (Annex 3).
- 1.6 The Chairman mentioned that the Cuban Government had conveyed its condolences to the government of United States of America, and its solidarity with the USA in finding ways to oppose such terrorist violence.
- 1.7 The Chairman noted the violence has also affected NAFO in that there is no quorum to conduct its meeting.
- 1.8 It was noted that the Scientific Council members had arrived before these problems and was in a position to continue with their business during this week, but the rest of NAFO could not have meetings at this time.
- 1.9 The Chairman noted that the views of delegations around could be recorded, but decisions on how to proceed will require mail voting. The Chairman then called for the views from Heads of Delegation.
- 1.10 All Contracting Parties around the table expressed their views, and these were summarized for record on this report.
- 1.11 Collectively, Contracting Parties expressed appreciation to Cuba, and to the Chairman, Mr. Oltuski, for hosting this meeting, for the excellent modern facilities offered for the meeting, and the warm welcome extended to this beautiful country.

- 1.12 In general, Contracting Parties expressed deep regret for the tragedy in USA and extended condolences to USA.
- 1.13 Views were expressed by some Contracting Parties that it was regrettable that the USA incident affected NAFO business.
- 1.14 It was noted regrettably by some that the inability of certain Contracting Parties to participate in this meeting was not conveyed to all Contracting Parties well in advance of the meeting date, and many Contracting Parties were already in travel status when announcements were made.
- 1.15 Some Contracting Parties expressed concern that this late communication resulted in great expenses to the host country, Cuba, and also Contracting Parties who arrived for the meeting. It was regrettable that those that arrived could not carry back home firm decisions of NAFO.
- 1.16 The Chairman received two specific proposals made by Denmark (in respect of Faroe Islands and Greenland), and Japan, on how to proceed with NAFO decisions as a result of these delays.
- 1.17 It was noted that in accordance with the NAFO Statutes, the current elected Executive Officers will hold their positions until such time as the business of the 23rd Annual Meeting is completed.
- 1.18 One specific proposal offered by Denmark (in respect of Faroe Islands and Greenland), identified the need to work as soon as possible to address the requirements for 2002 on Conservation and Enforcement Measures including allocations as well as matters of NAFO Administration. In this regard, Denmark (in respect of Faroe Islands and Greenland) was ready to host a new meeting near Helsingor, Denmark, during the 5th week of 2002 (beginning 28 January 2002). However, this decision was needed this week.
- 1.19 Japan expressed the view that it cannot support a proposal to hold a full-scale meeting again for NAFO requirements for 2002. While such a meeting would represent commitments for large additional expenses, it would also be difficult to adjust many Government schedules. Japan proposed a mail vote to be held immediately to extend the current 2001 NAFO Conservation and Enforcement Measures and administration commitments for the year 2002. It was proposed that new decisions for 2003 as needed should be undertaken at the 24th Annual Meeting which will be held in Spain in September 2002.
- 1.20 Japan stated that this proposal was justified because the scientific advice from the Scientific Council in June 2001 had not proposed significant changes from the previous year. Also, Japan proposed that the present Executive Officers should continue to hold office till the end of the September 2002 Meeting in Spain.
- 1.21 With respect to these two proposals, each delegation commented on their preference.
- 1.22 Contracting Parties present around the table expressed their individual views, and in general support for the proposal by Japan was stated by Estonia, Latvia, Lithuania, Poland, Russia and Ukraine.

- 1.23 Contracting Party Cuba was in general support of the proposal by Denmark (in respect of Faroe Islands and Greenland) to hold another meeting in the place and time decided through mail vote.
- 1.24 The Chairman noted that the proposals from Denmark and Japan and the views of the rest of the Contracting Parties will be circulated to all the member countries of NAFO and comments and proposals requested.
- 1.25 Once all this information is received the Secretariat will circulate the proposals and a mail vote requested in order to take final decisions.
- 1.26 In conclusion, the Chairman expressed his sincere thanks to all Contracting Parties, and once again expressed in the name of all the Contracting Parties NAFO's condolences to the United States.

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**Annex 2. Statement by FAO to the 23rd Annual Meeting of the
Northwest Atlantic Fisheries Organization**

**Varadero, Cuba
17-21 September 2001**

Mr. Chairman, distinguished delegates and observers:

FAO is very grateful for the invitation extended by NAFO's Secretariat to observe this annual meeting. Over the years there have been close and effective working relations between the two Organizations and it is FAO's earnest desire that this type of collaboration should continue.

FAO appreciates, in particular, the cooperativeness of the NAFO Secretariat in responding to FAO's periodic requests for information relating to NAFO's activities. These requests are made to NAFO and other regional fishery management organizations once or twice a year and FAO is well aware that such requests create an additional burden for the secretariats of these organizations. The NAFO Secretariat always responds fully and in a timely manner. This collaboration greatly assists FAO in meeting its global fisheries reporting responsibilities.

This NAFO Session is taking place when global fishery issues are more complex than ever before. The international community is requiring that both target and non-target fishery resources are managed and utilized in a long-term sustainability manner. Furthermore, there is a need to:

- proceed with precaution when information is lacking;
- deal responsively with new entrants;
- ensure that fisheries monitoring, control and surveillance is both cost- and operationally effective, and so on.

In short, innovative measures are needed to address the changing complexion of fisheries and the demands of management.

Regional fishery management organizations such as NAFO have a critical role to play in managing fishery resources. Where resources are shared there must be a coordinating mechanism to facilitate international cooperation. Such cooperation requires a high level of commitment on the part of all participants to ensure that stocks are not overfished nor their ecosystem degraded. However, management arrangements must be seen as fair and equitable if ongoing efforts are not to be undermined by disgruntled players.

Despite some tough periods, NAFO has come a long way since its Convention entered into force in 1979. The Organization has continued to focus sharply on its mandate of promoting the conservation and optimum utilization of the fishery resources of the Northwest Atlantic area within a framework appropriate to the regime of extended coastal States jurisdiction over fisheries, and accordingly to encourage international cooperation and consultation with respect to these resources.

In pursuing this goal, NAFO has been at the forefront of work undertaken by regional fishery management organizations to:

- implement the precautionary approach;
- enhance monitoring, control and surveillance;

- minimize by-catches, discards and post-harvest losses;
- promote compliance by non-contracting NAFO parties with conservation and management measures established by the Organization;
- strengthen dispute settlement procedures, and
- promote transparency.

These NAFO initiatives have been taken against a background that has involved States taking measures to implement recently concluded international fishery instruments, namely, the 1993 FAO Compliance Agreement, the 1995 FAO Code of Conduct for Responsible Fisheries and the four international plans of action concluded within its framework, and the 1995 UN Fish Stocks Agreement. The implementation of these instruments is critical if long-term sustainability in fisheries is to be achieved.

The 1993 Compliance Agreement is nearing the number of acceptances required to bring it into force. As of today the Agreement has 22 acceptances, and an additional three are required for it to enter into force. For those countries that have not accepted the Agreement, FAO urges that every effort be made to do so. The entry into force of this Agreement will enhance the manner in which high seas fisheries are managed.

Let me conclude Mr. Chairman, by saying that I bring to the meeting the very best wishes of FAO's Assistant Director-General for Fisheries, Mr. Ichiro Nomura. A friend and colleague to many of you, he wishes the meeting success in its deliberations on the important matters before this session.

Thank you very much.

**Annex 3. Statement by Delegation of Denmark (in respect of
the Faroe Islands and Greenland)**

**Delegation for
Denmark in respect of
The Faroe Islands and
Greenland (DFG).**

Ad N7. J. nr. 63.C.5 a

**NAFO Annual Meeting 2001
Informal Council Meeting
17 September 2001**

**Opening Statement
Talking Points**

Mr. Chairman,

The Delegation for DFG wants to thank you, Mr. President, for the invitation to the annual meeting of NAFO 2001 to be held here in Varadero, Cuba. Now we are here, and we can see that you have arranged everything necessary in order to make this meeting a successful one, just like you did last time we met in Cuba, in 1985.

Upon our arrival here, we have learnt that a considerable number of delegations have decided not to take part in this meeting. We have taken note of the fact, that you, Mr. Chairman, have declared that there are not enough Contracting Parties present here to constitute a quorum, and therefore this session is to be regarded as an informal gathering of a number of Contracting Parties.

We have understood that the absence of a number of delegations is due to the tragic events, which took place in New York Tuesday last week, 11 September.

In Denmark, including the Faroe Islands and Greenland, we deeply regret these tragic events. The head of the Danish Government as well as the heads of the two home governments have expressed their condolences to the U. S. Government. Furthermore, the Danish Kingdom authorities have in the relevant international fora expressed their solidarity with the United States in this situation where major cities and institutions of the U. S. have been subject to terrorist aggression.

Having said this, it has been the opinion of the relevant authorities of the DFG that we, as a Contracting Party to NAFO, have been called by the NAFO President and Secretariat for a regular NAFO annual meeting here, at the invitation of the Cuban Government. Therefore we have deemed it correct to come here, unless NAFO had decided to postpone the meeting.

If a decision to postpone the meeting, due to difficulties of the North American delegations to participate, had been put to a quick postal vote Thursday afternoon, or at the very latest, early Friday morning, European time, DFG would have voted in favour, and, if the proposal were carried, we would of course have stayed at home. We acknowledge that the absence of the coastal state, which has most straddling stocks in common with the Regulatory Area, would greatly reduce the value of an annual meeting, not least in the Fisheries Commission.

Mr. Chairman, DFG is both a coastal state in NAFO and taking active part in the fisheries in the Regulatory Area. We feel responsibility for the functioning of this organisation. We will in this meeting, recognising the legal constraints that limit the powers of this gathering, be ready to cooperate with you, Mr. President, and take active part in a discussion of how we best can perform the functions of this organisation under these unforeseen circumstances.