

Northwest Atlantic



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Report of the First Meeting of the Standing Committee on
Fishing Activities of Non-Contracting Parties
in the Regulatory Area (STACFAC)

Dartmouth, Nova Scotia, Canada, 30-31 January 1991

1. The First Meeting of the Standing Committee on Fishing Activity by Non-Contracting Parties (STACFAC) was called to order by the Executive Secretary, Dr. L. Chepel at 1015, 30 January 1991, at the Holiday Inn, Dartmouth, Nova Scotia. The following Contracting Parties were represented: Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), EEC, Japan, Poland and the USSR (Appendix I).

The Executive Secretary welcomed the delegates and called on Canada for opening remarks. The Canadian representative welcomed all representatives to Canada and expressed the importance of this Committee's deliberations to the well being of the fishery within the Regulatory Area. Canada indicated this was the first time that a new Committee had been formed within NAFO and it reflects the importance that NAFO has placed on finding solutions to the fishing being conducted by non-Contracting Parties within the Regulatory Area. Reference was made to the increased activity by non-Contracting Parties that had taken place since 1984 which clearly showed the seriousness of the problem. NAFO, at the meeting in September 1990, recognized the seriousness of this problem and all Contracting Parties agreed to the formation of STACFAC to address this problem. It was hoped that at this first meeting, STACFAC would be able to meet the goals set by NAFO in September 1990 for STACFAC.

2. The Executive Secretary then called for nominations for Chairman of STACFAC. The Canadian representative nominated Mr. C. C. Southgate (EEC). The EEC representative supported the nomination. There being no further nominations Mr. Southgate was declared Chairman.

The Chairman thanked the delegates for their support and called for nominations for Vice-Chairman. The USSR representative nominated Mr. Garcia Moreno (Cuba). Canada and the EEC seconded the nomination. Mr. Garcia Moreno was elected as Vice-Chairman.

3. Under Item 3, Mr. R. J. Prier (Canada) was appointed rapporteur.
4. Under Item 4, the Agenda as presented was adopted (Appendix II). The Chairman called for Other Matters and although none were presented left the item open for the course of deliberations.
5. Under Item 5, Review and Elaboration of Rules of Procedure, the Chairman requested comments on the draft Rules of Procedure that had been circulated in advance of the meeting by the Executive Secretary. The Canadian representative thanked the Executive Secretary for his initiative and for reminding Contracting Parties that it was the responsibility of the Committee to develop its own Rules of Procedure. The terms of reference outlined in NAFO/GC Doc. 90/9 were adopted by all Members at the Annual Meeting and described the objectives of the Committee. Therefore, Canada proposed that the terms of reference agreed to by all Contracting Parties be accepted as the Rules of Procedure. The EEC representative

supported the Canadian proposal. The EEC further stated that some further Rules of Procedure may be required and made reference to the STACFAD Rules of Procedure outlined on page 63 of the NAFO Handbook. The Canadian representative fully agreed with this suggestion. The Chairman asked for further comments and hearing none stated that the terms of reference outlined in NAFO/GC Doc. 90/9 together with selected wording from STACFAD terms of reference found on page 63 of the NAFO Handbook be adopted as the Rules of Procedure for STACFAC (Appendix III).

6. Under Item 6, Review of all available information on activities of Non-Contracting Parties Vessels in the NAFO Regulatory Area, the Chairman requested Contracting Parties to table any reports on the item at this time. The Canadian representative indicated they had a report but it would not be available for approximately 20 minutes and requested that if other Contracting Parties had reports ready to table them while waiting for the Canadian report. The EEC representative stated they had a report, which had been compiled based on courtesy boardings and air surveillance. The EEC indicated that the Canadian report would likely be extensive and that it might be better if it were tabled first. He further stated that the EEC would recommend that Items 6 and 7 be dealt with together. The Canadian representative agreed to deal with Items 6 and 7 together and indicated the Canadian report would be available in 15 minutes.

The USSR representative stated that they had a short report on activity by non-Contracting Parties and would present it after the Canadian Report.

The Japanese representative stated that it had information on activities of non-Contracting Parties and agreed to wait for the Canadian paper. The Chairman then adjourned the meeting for 15-20 minutes.

The Chairman reconvened the meeting at 1130 and requested Canada to go over its paper on Activity by Non-Contracting Parties within the Regulatory Area. The Canadian representative reviewed their paper (Appendix IV) and highlighted the following points:

Table 3 outlining the catch statistics by nation and species indicated an increase in Korean and Panamanian activity in the Regulatory Area and the concentration of Korean vessels in redfish, Panamanian vessels in cod and USA vessels in flounder.

Table 5 pointed to the increase in effort since 1984. It was noted that the dramatic increase in reported activity in particular in 1990 over 1989 is more a function of increased air surveillance than of actual effort. It is estimated that non-Contracting Party effort has been increasing at a steady pace.

Table 6 which outlined a dramatic increase in estimated cod catches during the period 1984-89. Flounder catches are also of real concern to Canada.

The remaining tables detailed the effort and catches by each non-Contracting Party fishing in the Regulatory Areas.

The Chairman thanked Canada for the report and asked if it might not be advisable to take the Canadian paper along with the EEC paper and review those papers over lunch and then return and discuss them.

The EEC representative agreed with that proposal but briefly reviewed their paper (Appendix V). The EEC indicated that it was very difficult to determine the destination of fish caught by non-Contracting Parties in the Regulatory Area. The EEC presentation stated they are not in a position to conduct the same amount of surveillance in the area that Canada can carry

out and thus their report was mainly concentrating on the destination of the fish. They further stated that landings give some indication of where fish goes but it was not possible to give substantive information on landings without an extensive investment of time and money and even if that was done it would not provide a complete picture. However their paper did give some indication of landings. The Chairman agreed to take items 6 and 7 together because of their interrelation and the importance of information of landing of fish caught within the NAFO Regulatory Area.

The Japanese representative commented on a statement within the EEC report which indicated that Japanese vessels may have been sold to Korean interests but may still be under the financial control of Japanese interests. He stated even though Japan restricts export of trawl vessels to Korea, there may be a case that ex-Japanese vessels might be re-exported to Korea from the country where the vessel was originally exported, which is beyond the control of Japanese Government. He also stated that the above financial situation did not exist.

The EEC replied that the information had been received from the vessels themselves but references to Japanese financial interests in Korean vessels should of course be removed from the report if they were not correct.

The Chairman adjourned the meeting until 1500.

The Chairman reconvened the meeting at 1520.

7. The Chairman referred to the paper on Rules of Procedure and asked the delegates to review this document and if they had any comments to pass them to the Executive Secretary. The Canadian representative recommended that a third paragraph be added along the lines that the rules of voting should be consistent with other Committees within NAFO. This amendment was agreed to by all Contracting Parties and the Chairman requested further suggestions for amendments to this document be forwarded to the Executive Secretary who will prepare it for presentation to the General Council for approval.
8. The Chairman then referred to the papers presented by Canada, the EEC and the USSR and recommended that those papers be appended to the minutes of the STACFAC meeting in order that they can be referred to in the future. In reference to the three papers, the Chairman asked the Executive Secretary to comment on what status those papers should be given. The Executive Secretary agreed the papers should be made appendices to the STACFAC minutes. The Chairman asked if there were any comments on this proposal and there being none, the Working Papers would be incorporated as appendices to the STACFAC minutes.
9. The Chairman then referred to the three papers on activity by non-Contracting Parties within the Regulatory Area and requested comments.

The EEC representative, in reference to the Japanese comment on the EEC paper made prior to the break, indicated that the information had been removed in the revised paper. In reference to the Canadian paper, the EEC did not want to get into a discussion of figures presented, as they were based on estimates. The EEC stated that it was somewhat embarrassing to note that whereas last year it was felt the increase in catches in the Regulatory Area by non-Contracting Parties was coming to a halt, this was apparently not the case, according to the figures in the Canadian paper. He further stated there may be varying reasons for that but there was no long term trend indicated. It was therefore difficult to draw concrete conclusions from the information.

The Canadian representative commented on the reference to Sierra Leone vessels which were reported in the EEC paper and indicated the Canadian paper listed the same vessels as registered in Korea and St. Vincent and there may be a requirement for the Executive Secretary to verify the registration of these vessels. In reference to the statement in the EEC paper that catches are concentrated in 3M and 3N, Canada felt that while those could reflect the situation at the times the EEC had patrol boats in the Regulatory Area, the Canadian paper represented surveillance throughout the year. In reference to Table 3 of the EEC report, the estimate of the annual landings of the 11 vessels during 1988 and 1989 of 961 T approximates what Canada had estimated the catches of the 24 Panamanian vessels fishing in the Regulatory Area had been. The figure of 1000 T per vessel could be used as a "ball park" estimate of annual landings by non-Contracting Party vessels fishing in the Regulatory Area. Canada stated that if there were no further questions on effort or catches by non-Contracting Parties in the Regulatory Area they would request any information on transshipments that Contracting Parties may be able to provide. Canada further stated non-Contracting Parties are not authorized to use Canadian ports for transshipments. However, there is a port near Canadian shores which is being used by non-Contracting Parties and reference is made in the EEC report to Non-Contracting Parties using that port for transshipments. Public records indicate that since 1985, the use of this port by Panamanian vessels has increased by 100%; by Korean vessels has increased by 350%; and by USA vessels has increased from one vessel carrying out a transshipment to 28 vessels. The use of St. Pierre-Miquelon makes it easier for non-Contracting Parties to exploit the stocks within the Regulatory Area and any information on these transshipments would be welcomed.

The Japanese representative reported that their fishing vessels operating in the Regulatory Area (Subdivision 3M) sighted 3 Korean vessels in April, 4 in May, and 1 in December. With regard to transshipments last November, a Japanese Reefer Company was approached by Korea to transship fish to Japan. This was refused because the vessel was under the control of the Japanese Deep Sea Trawler Association. Other Japanese companies have transshipped approximately 1000 T of American plaice to Japan.

The Canadian representative thanked the colleagues from Japan and indicated that their report of transshipment of American plaice was consistent with Canada's statistics. With regard to landings, Canada stated they were basically an exporter of fish and therefore did not have figures on landings to present to the Committee. In reference to the EEC paper, Canada stated the efforts made by the EEC in seeking these statistics are appreciated and it was hoped that the EEC will continue to provide this information on landings in 1991. In reference to other Contracting Parties, Canada would be interested in what, if any, duties are levied against the import of fish from non-Contracting Parties fishing in the NAFO Regulatory Area.

The EEC representative indicated they are trying to find out where fish is going but it is a difficult matter to determine. Every effort should be taken not to facilitate this import without resorting to increased levies. To increase these levies would be difficult to implement at a time where trade liberalization was negotiable they would attempt to ensure that present levies in place are administered. He also stated development of the framework to have non-Contracting Parties provide this information to NAFO should be looked at. This could be covered in the development of the text of the diplomatic notes.

11. The Chairman indicated the point made by the EEC was a valid one and could be addressed under item 8. The Chairman stated he felt items 6 and 7 had been addressed and that they could move to item 8. The Canadian representative stated that in the discussion of item 8 they might identify information which they might want to solicit from non-Contracting Parties. The Chairman agreed and moved to discuss item 8.
12. Under item 8, Examination and Assessment of Options, the Chairman referred to NAFO/GC Doc. 90/3 submitted by Canada and requested comments. He stated the agenda item was quite a bit broader than indicated and asked Canada to review the complete resolution.

The Canadian representative, referred to paragraph one of the NAFO Resolution which referred to communicating with non-Contracting Parties through diplomatic channels, and stated it had approached Korea to indicate the problems posed to the conservation of stocks within the Regulatory Area by non-Contracting Parties fishing in the Regulatory Area. Canada had also raised with US officials the issue of USA vessels fishing in the Regulatory Area. Canada had sent a delegation to Panama and approached senior officials in Panama and described the consequences of overfishing by non-Contracting Parties in the Regulatory Area. Those meetings were very productive. There was merit in exposing the problem of reflagged vessels to the Panamanians as the reflagging of fishing vessels does not generate significant economic benefits for Panama, as no fish is landed in Panama from these vessels, there are no Panamanian crews involved nor is any of Panamanian industry involved. They were open to ideas for cooperation with NAFO. Panamanian officials did suggest that if Panama did not re-register these vessels they would go to a country that would. Canada indicated that any inconvenience that can be put in the way of these vessels would be appreciated.

The Draft Aide Memoire has been developed to assist all Contracting Parties of NAFO to become involved, either individually or jointly. Canada requested that Contracting Parties review the draft Aide Memoire in order that it could be discussed the following day.

The draft Certificate of Harvest Origin (Appendix VII) is a recommendation by Canada that Contracting Parties consider all fish caught in the NAFO Regulatory Area be required to be accompanied by a certificate stating the harvest origin of the fish. Canada stated that this was not to be construed as an import restriction and would not prevent the importation of product caught. It would, however, permit NAFO to gather data on catches from the Regulatory Area. The certificate would be applicable to both Contracting Parties and non-contracting Parties. NAFO would be looking at 1992 for adoption of this procedure as an interim measure. The details could be worked out later but Contracting Parties should review this approach. Finally, Canada tabled a description of an import control measure that would consist of a protocol to the NAFO Convention. It would be a long term measure and would be implemented over the long term. Again, Contracting Parties are asked to review those documents and, while they are substantive and need careful review, preliminary comments would be welcome.

13. The Chairman thanked Canada for its presentation. The EEC representative asked Canada for more information on the Korean and US reaction to the consultations. The Canadian representative stated that American officials had heard rumours that the USA vessels that fish in the NAFO Regulatory Area might be threatened with bankruptcy. As far as the USA fishing industry is concerned, they have no interest in joining NAFO as USA fisheries management is not similar to NAFO's. Canada felt that bankruptcy will not play a significant part in the USA fishing activity and therefore Canada expected to see the continued presence of USA vessels in the NAFO

Regulatory Area. With respect to Korea, the Korean officials stated that certain limits were put on the Korean fleet as to which vessels were authorized to land fish caught in the Regulatory Area. However, no proof was available to confirm this. No further details were given by Korea.

The representative of Denmark (in respect of the Faroe Islands and Greenland) stated that they were preparing a diplomatic demarche to Panama and would be forwarding it in the near future. They stated it was difficult to comment on the paper which was just received and they reserved comment until the next day.

The Japanese representative stated that after the September meeting of NAFO officials from Japan met with Korean fisheries representatives and reiterated the concerns of the NAFO Contracting Parties re Korea's fishing in the Regulatory Area. They recommended to Korea that they become observers at NAFO and consider membership in the future. Korea indicated they would consider this and get back to the Japanese representatives.

The EEC representative stated that diplomatic notes had been prepared to be sent to the USA, Korea, Venezuela, St. Vincent and the Grenadines, Malta, Panama, and the Cayman Islands. Within these diplomatic notes it had been requested that they provide NAFO with accurate statistics on catches. The EEC made reference to Article 118 of the Law of the Sea which requires all nations to adhere to conservation measures for the preservation of fishing stocks throughout the world. He also referred to Article XIX of the NAFO Convention which requires non-Contracting Parties to abide by conservation measures. Those diplomatic notes will be followed up with individual contacts with appropriate officials of those non-Contracting Parties. The Community indicated that they required time to review the three papers and reserved further comments until after they had had time to study the papers.

The Chairman suggested a short break for review of these papers to allow some preliminary comments to be made because of the time restraints involved. The Canadian representative agreed with this approach and suggested that the Committee concentrate on the Aide Memoire in the first instance. This was agreed to and the Chairman adjourned the meeting.

14. The Chairman reconvened the meeting at 1715 and asked Canada to briefly review the paper prior to Contracting Parties giving their initial reaction to the paper.

The Canadian representative reviewed the paper and indicated that the first 5 paragraphs provided a preamble which would be incorporated into letters of demarche to all non-Contracting Parties. The next paragraphs had been tailored for specific non-Contracting Parties. The last 3 paragraphs are generic and could go to all non-Contracting Parties.

The EEC representative made some preliminary observations regarding the relation of this initiative to paragraph one of the Resolution. In addition, the EEC stated that before embarking on a joint initiative of Contracting Parties initiating notes to Non-contracting Parties, it may be more appropriate to see what reaction was received from the notes which had already been sent individually. The EEC then suggested amendments to the text as did Japan, Denmark and the USSR. Canada had indicated that these amendments would be incorporated into a second draft of that paper and would be available tomorrow morning.

The Chairman stated that individual Contracting Parties had already made their own demarches and this Committee should ensure that any joint demarches should not cut across or counter individual efforts. He also asked whether we were going to exclude the possibility of non-Contracting

Parties becoming members of NAFO.

The representative of Denmark (in respect of the Faroe Islands and Greenland) stated it was a positive approach but that the problem was timing. He indicated a harmonized approach was needed. He would appreciate being advised of the content in the EEC demarches. Denmark further stated that if those notes were to be the second draft to non-Contracting Parties then the wording should be more pointed. It was Denmark's opinion that non-Contracting Parties should not be excluded from joining NAFO as it would be easier to control those countries as members of NAFO.

The EEC representative stated they were prepared to distribute copies of their demarches but were waiting for confirmation that they were in fact sent. They were not concerned about the content but more that the notes were consistent. The EEC also felt that it must be ensured that the notes sent to non-Contracting Parties reflected the initiative of NAFO as a whole and not as individual Contracting Parties, in order not to give the impression that the same kind of initiative was launched twice. Even if no explicit invitation to non-Contracting Parties were to be extended, NAFO was an open Convention, according to Article XXII.4 and no interested Party should be given the impression not to be admitted.

The Executive Secretary indicated that he had sent letters to Korea, Chile, Mexico, Panama and the USA drawing their attention to the fact that their vessels are fishing in the Regulatory Area contrary to the conservation measures of NAFO. The only response received had been from the USA and that was just received and had been distributed to the delegates.

The Canadian representative indicated that those had all been constructive comments. With regard to the response from the USA, the Canadian representative pointed out that the Gulf of Maine is within the NAFO Convention Area but not the NAFO Regulatory Area and is therefore not relevant to this discussion.

The Chairman asked if there were any further comments on timing or drafting. The USSR representative stated they appreciated the work done by Canada in drafting this paper and that timing was very important. Some Contracting Parties as well as the Executive Secretary had already sent letters. The USSR agreed with Canada that joint demarches be made to non-Contracting Parties and agreement on content should be made. He further stated that in the past letters had been sent on an irregular basis but that it should be done on a regular basis by joint Contracting Parties and the Executive Secretary. The goals of the Committee may then perhaps be achieved. The USSR agreed with the EEC that the letters must reflect the views of NAFO as a whole and not individual Contracting Parties. The Chairman stated the last statement of the USSR should be uncontentious.

The EEC representative stated that care must be taken not to discriminate between Non-Contracting Parties. The Community did not contest the approach in the paper. However General Council approval may be needed to send such notes and since it is a NAFO matter NAFO approval may be required.

The Canadian representative suggested the Chairman ask the Executive Secretary if General Council approval is required and what procedure should be taken. The Executive Secretary stated that all Contracting Parties should proceed individually to contact non-Contracting Parties. He did not see any problem with Contracting Parties contacting non-Contracting Parties as the Resolution of the General Council gave authorization to do so in its instructions to STACFAC. The Chairman asked

the Executive Secretary to repeat his answer. The Executive Secretary stated that according to the Rules of Procedure STACFAC can promote our views to Contracting Parties and if the Standing Committee agreed to go forward with this approach they can. At the Annual Meeting the General Council would be advised of how the Committee intend to address this problem.

The EEC representative stated that because all Contracting Parties are not present it must be clarified as to whether this Committee can make decisions and react to those decisions without all Contracting Parties being present. The Canadian representative suggested that the Committee was empowered to recommend to the General Council that a mail vote be taken and this would not unduly delay decision on the matter. The USSR representative concurred with the statement by the Executive Secretary that the General Council had already given the Committee authority to do this. It is up to the individual Contracting Parties whether it is done individually or jointly.

The Chairman stated the Canadian proposal for a mail vote had merit even though the General Council had given authority and this may strengthen our hand. The Standing Committee can make the decision in accordance with the General Council Resolution (NAFO/GC Doc. 90/8). After any recommendation is adopted by delegates of the Standing Committee, those recommendations should be distributed to Contracting Parties for approval and in the case of urgency the mail vote may be used.

The representative of Denmark (in respect of the Faroes Islands and Greenland) stated that the Committee should strive to get a consensus on the text and consent of all Contracting Parties. If that failed then the Committee could go to the General Council in September.

The EEC representative referenced to Article III(b) of the Convention which states that a mail vote is taken only in cases of emergency. They stated it was the responsibility of the Executive Secretary on how this would be done and the Committee may want to return to this issue later.

The Chairman agreed an attempt should be made to get consensus on the text in STACFAC and if this could not be done the issue of the agreement of the General Council would be irrelevant. He asked for further comments and there being none adjourned the meeting until 0900 the following day.

The Chairman reconvened the meeting at 0935, January 31, 1991.

16. The Chairman requested the delegates to commence discussing the Canadian paper, Certificate of Harvest Origin, and requested that Canada review their document.

The Canadian representative recalled the brief overview given yesterday and stated that the paper described a measure which would require imports of fish or fish products of NAFO-regulated species to be accompanied by a certificate of harvest origin stating whether they were caught within or outside the NAFO Regulatory Area. The certificate was a method of obtaining information about imports from non-member countries without imposing sanctions. The certificate was a method of obtaining information about imports from non-member countries without imposing sanctions. The certificate would be issued by an authority empowered by the government of the exporting country. Customs officials would be responsible for enforcing the certificate requirement. Canada sees three primary benefits from the certificate requirement:

1. a data base
2. not a trade barrier
3. first and essential step to limit trade in fish caught in the NAFO Regulatory Area by Non-Contracting Parties.

The details of the certificate could be formulated at a later date but what Canada was seeking was approval in principle for a certificate system.

The Chairman asked for comments.

The USSR representative requested clarification with respect to reference to Nationality in the third paragraph of the application. The Canadian representative stated they intended this to refer to vessel registry and not to nationality of the crew or ownership of the vessel.

The representative of Denmark (in respect of the Faroe Islands and Greenland) asked for clarification that the certificate would only be for fish products harvested in the NAFO Regulatory Area. The converse of this that all fish caught outside the Regulatory Area would not require a certificate. He also stated that Denmark agrees the certificate should go ahead on a species basis for those species regulated by NAFO, but questioned the practicability of the proposed measure.

The EEC representative stated the Committee should try to focus on the principle which is acceptable and agreed with the representative of Denmark that it will be difficult to implement in practice. He also indicated it will be difficult to differentiate between fish caught in the NAFO Regulatory Area and that caught in other areas. He also indicated it may not be in line with proportionality. The question arises on how NAFO can rule on fish caught outside the NAFO Convention Area. Paragraph two of the paper implies that NAFO would not prevent imports of fish caught outside the NAFO Convention Area if accompanied by a certificate. NAFO might be questioned on restrictions with regard to international trade and that would have to be considered. An observation was made on the second paragraph of the paper in that the first sentence deals with the question in a negative manner and the second in a positive manner. Whatever form it takes, it was the Community's opinion that it must be non-discriminatory and in conformity with GATT. The third paragraph talks about area inside and outside the NAFO Regulatory Area where similar fish are caught. Discussions with the scientific community may be required to determine if this is feasible. The Canadian paper pointed to the advantage of the certificate of harvest in obtaining statistics on catch.

17. The EEC representative pointed out that restrictions on trade are considered under the relevant Articles within GATT and referred to the Canadian paper (Appendix VIII) and Article XX(g) of GATT as a possible reliable basis to consider. The Community indicated as an essential first step GATT should consider the interpretation of Article XX(g) of GATT. It is essential for a possible application of Article XX(g), that whatever measures are taken to restrict such practices of Non-Contracting Parties should be based on conservation measures. The EEC stated that if there were a panel on such measures it would be essential to ensure that measures are aiming at conservation purposes. He further stated more confirmed statistics were needed because all our figures have been based on estimates. Consideration must be given to this question from a legal basis and its relation to GATT.

The Chairman stated he saw no problem in discussing the certificate and the proposed protocol together.

The Japanese representative indicated Japan was not ready to say yes or no to the proposal but needed more time to study it especially in relation to GATT. He indicated the proposal for a certificate of harvest has two aspects, the first being data collection and the second being the first step towards further action. Japan referred to Article IX of GATT which specifies the provisions on marks of origin. With regard to the first aspect, he questioned whether GATT allows the introduction of marks of origin for data collection purpose. He also stated a need of careful study to judge whether the proposal does not contradict the first paragraph of Article IX which prohibits discriminatory use of marks of origin. He also indicated that the marks of origin are normally issued by the Chamber of Commerce which is usually not in a position to know the place of capture. Therefore, this could lead to deception which is very difficult to control. With regard to the second aspect, he stated that careful study should be done whether Article XX(g) will be applicable to this kind of situation. He noted also that recourse to Article XX(g) is only allowed in conjunction with restrictions on domestic production or consumption. He stressed the need to avoid abusive use of trade restriction. In this context, he noted that the "Wellington Convention" which is mentioned in the Canadian paper is one example of abusive use of trade restriction. In this connection, he drew the attention of the Committee to the fact that Japan tabled a proposal on clarification on interpretation and application of Article XX(g) to GATT Agriculture Negotiating Group on August 27, 1990. In closing, Japan reiterated the need of careful consideration in dealing with the trade restriction issue, as it could be an extremely controversial and politically difficult problem.

18. The EEC representative stated that since both papers were presently being discussed, the discussions are still on discussions of principle. The EEC agreed with Japan that any possible measures in the trade sector are politically sensitive matters and would have to be consistent with GATT. Some elements which would give the Community serious problems would be transshipments and port access which are covered under Article V of GATT. The EEC have opposed these proposals from the start. The other question to be raised was what to do about Non-Contracting Parties wishing to join NAFO. The EEC position has been to invite Non-Contracting Parties to join NAFO. The argument put forth against this was there was no fish to give them, but the Community had previously put forth a procedure on how that could be done. We must avoid giving the impression that we would not admit or not have fish available to Non-Contracting Parties because the Convention allows for the accession of Non-Contracting Parties. While NAFO does not have to invite them to become members, it must avoid the impression of not accepting them. With the aide memoire we have tried to provide elements along this line. The USA reply to the Executive Secretary implied that because there is no fish they do not want to join NAFO. Our principle must be maintained if we are to implement trade measures without options to join NAFO, this would be a dangerous and even unacceptable approach under the GATT.
19. The EEC representative felt the reference made by the Japanese representatives to the Uruguay Round may be a useful paper to review. While it was understood that this was not the proper forum to discuss the paper it may have relevance. NAFO should have preliminary discussions with GATT and its relationship to Article XX(g) of GATT. The primary aim is conservation and restriction in national production in respect to trade restriction. The EEC indicated this was difficult from a legal, political and economic point of view and the principle of the matter must be examined very carefully. While it is complicated the Committee has been asked to look at the matter by the General Council. It is not a case of not accepting or adopting the paper which can be used as a basis for discussions. The Committee should examine and look for concrete

recommendations that are acceptable.

The Chairman summarized the scope of the discussions and indicated enforceability, practicality, compatibility of GATT and related trade matters, reference to Article XX(g) of GATT and the reference to admission of Non-Contracting Parties of NAFO had been raised.

20. The representative of Denmark (in respect of the Faroe Islands and Greenland) stated since they had just received these papers his remarks would be preliminary. He also agreed that this was a very complicated subject and agreed with the Chairman to limit his discussion to the points made in the Chairman's summary. He asked what measures could be developed and what would be the link to Article XX(g). It must be ensured that all measures are related to conservation and that they do not conflict with GATT. Denmark would recommend that a way to consult as an Organization with GATT on the introduction of measures be developed. The problem of protecting fish stocks from illegal activity is not isolated to NAFO. NAFO should endeavour to ensure that nations should not benefit from illegally caught fish. Denmark (in respect of the Faroe Island and Denmark) stated there is a tendency towards deregulation and the establishment of the certificates could be viewed as counter productive. The Committee should attempt to establish a questionnaire or a set of proposals to be submitted to GATT. In conclusion, he stated that The Committee must ensure any measures adopted are acceptable to GATT and if they are acceptable to GATT then they would be acceptable to all Contracting Parties.

The Canadian representative thanked other delegates for their initial, helpful reactions. Canada agreed to discuss the two papers together, although the certificate of harvest origin was of priority concern at this meeting. Responding to comments made by the delegates of the EEC, Japan and Denmark, the representative of Canada observed first that the certificate of harvest origin was entirely non-discriminatory. The area of harvest was the sole distinction made, ie, whether the fish had been harvested outside the NAFO Regulatory Area or not. The certificate would be applicable only to conservation measures in effect inside the NAFO Regulatory Area. It was assumed that definitions of species could be developed by biologists. In response to the EEC's remarks on the inter-relationships between the certificate of harvest origin and the protocol and more specifically on the benefits of the certificate, the representative of Canada noted that the second step, the protocol, remained optional. The certificate scheme is a stand-alone measure, which could operate on its own as long as necessary. The question of enforcement would be affected by the level of detail on the certificates and the potential difficulty in following fish and fish products through various permutations from the vessel to the consumer. STACFAC might want to consider limiting the requirement to a certain number of product forms initially off-loaded from vessels, eg, salted fish, headed and gutted. The representative of Canada hoped that other delegates would take the idea of the certificate away with them for further consideration but that the Committee would have some sense at the end of this session that delegates were willing to consider the certificate scheme in a positive light and that they would return to consider how this measure could be implemented and the benefits it could bring. Delegates were asked to try to think of solutions to any logistical or legal impediments that might arise within their own systems. Regarding the GATT, Canada is of the opinion that the certificate is consistent with GATT. Members of NAFO through their own governments are free to solicit an opinion from GATT on use of the certificate of harvest origin. Such an opinion would not be binding on NAFO. Canada believes that such an opinion is not necessary. With respect to the protocol, the question of trade measures would require a great deal of thought down the road. The opinion of GATT could be sought by individual Contracting Parties if deemed necessary. Canada

would be reluctant to have NAFO as an organization involved in obtaining such an opinion from GATT when it could be done by individual Contracting Parties. Canada would hesitate to raise the profile of the question to such an extent, which could prematurely close off a useful avenue of action.

21. The Japanese representative made reference to the Wellington Convention. While disagreeing to the Wellington Convention, he stressed the need of cautious study on the approach specified in the protocol. He understood that certificate is the one which should be discussed for the time being and that the concept of protocol should be placed under long term consideration. He would like to see delegates give them more thought between now and the next meeting of this Committee and the annual meeting so that discussion on certificate and protocol could then advance.

The EEC representative indicated the amended draft on a joint diplomatic demarche meets the concerns of the EEC. The EEC suggested that in the paragraphs relating to individual countries, since the figures used are best estimates, the use of estimates might give Non-Contracting Parties the opportunity to contest those figures. It was recommended that individual figures for countries be replaced with the total estimated catches taken by all Non-Contracting Parties and these totals to an increasing trend over the years. The EEC had no further comments.

22. The Japanese representative raised a comment on the last paragraph on page four which is asking Non-Contracting Parties to withdraw their fishing activity from the NAFO Regulatory Area. He indicated that to be consistent with what they have told Korea, ie. to become an Observer now and in time to join NAFO, they proposed that we insert after the third line from the bottom "join NAFO or ask Nations to withdraw".

The Chairman felt the certificate of harvest proposal and the draft protocol presented by Canada could be considered together but not with the idea of merging them together. With respect to Canada's request for Contracting Parties to consider those proposals in a positive way, views were requested.

The EEC representative stated they appreciated the work Canada put into preparing the papers and were ready to accept those papers as a basis to reflect on possible measures. The concerns raised were in relation to what can be done in relation to trade responsibilities and GATT. The EEC stated more time was needed for reflection on elements of legal and practical implications of whatever measures are taken. The Committee should not prejudge on any positive or negative reflections. The EEC agreed to reflect on the matters further and be prepared to discuss them at the NAFO annual meeting.

The Chairman adjourned the meeting to allow Contracting Parties to review the papers.

The Chairman reconvened the meeting at 1150 and asked the delegates for further comments on the papers.

23. With respect to the revised aide memoire which had been distributed, the Canadian representative referred to the USSR's comments on paragraph 4 on page one where they suggested it would be useful to quantify the reduction in opportunities that NAFO members had experienced over the same period in which catches by Non-Contracting Parties had increased. Canada found in reviewing the numbers it was difficult to portray that reduction in an effective manner for the purpose of the document and therefore consulted with the USSR who made an alternate suggestion that perhaps it could be said what percentage of the total catch this Non-Member catch represented.

It has been estimated to be 35 percent based on 1988 and 1989 figures. Therefore the last sentence of paragraph 4 would be amended to read - "total catches by such vessels are estimated to have increased over the same period some 65-70 percent and now represent approximately 35 percent of the total catch in the NAFO Regulatory Area." The wording in the last sentence of the last paragraph now reflects the wording of the resolution which was adopted in September.

The EEC representative stated the paper (the joint diplomatic demarche) in front of them met their concerns. He suggested that individual paragraphs developed for each country based on best estimates may give support to non-Contracting Parties to contest these figures. It was recommended that the individual estimates be replaced by the total estimates taken by all Non-Contracting Parties and reference made to the increasing trend.

The representative of Denmark (in respect of the Faroe Islands and Greenland) brought to the delegates attention that the only country replying to the Executive Secretary's note was the USA. In the formulation of the letter to the USA that should be taken into consideration as well as the special history the USA has in relation to ICNAF/NAFO.

The Japanese representative again emphasized that the last paragraph on page 4 should be consistent with what they had said to Korea, ie., to attend NAFO as an Observer and in time join NAFO.

24. The Canadian representative indicated Canada would attempt to take the comments by the EEC and Denmark into consideration and look at how they can redraft the text utilizing those comments. In reference to the Japanese comment, Canada indicated they had spoken on this earlier with respect to the certificate and the protocol.

On the question of membership in NAFO, Canada would be willing, in response to the concerns expressed by the representative of Japan, to re-draft the Aide Memoire so as not to preclude the possibility of new members. The Canadian representative reminded the other delegates, however, that the NAFO resolution establishing STACFAC directed the Committee to investigate measures aimed at obtaining the withdrawal of the non-member vessels from the NAFO Regulatory Area. Canada agreed that the protocol and the effect on new members was indeed a wider issue. At this early stage in consideration of the protocol, however, Canada believed that it was premature to focus on its relationship with the question of new members. The descriptive paper on the idea of a protocol had been tabled by Canada to elicit discussion on the protocol as an instrument. Canada would like other delegates to develop responses to the certificate between now and the annual meeting of NAFO and at the annual meeting. The certificate is considered to be a measure that could be implemented in the short term. The protocol is clearly a longer term measure. Canada would like other delegates to give it more thought between now and the next meeting of STACFAC so that discussion on the protocol could proceed further at that time. The Canadian representative concluded that the comments of the Japanese representative on the protocol to the Wellington Convention need not necessarily apply to a protocol to the NAFO Convention, which could differ in substance.

The USSR representative suggested in reference to the figures at the bottom of the first page reference be made to 35 percent. In the last paragraph on page 4 keeping in mind the comments made by Japan and Canada, the Committee must try to keep within the wording of the General Council Resolution. It should not close the door to the acceptance of new members. To avoid misunderstanding by non-Contracting Parties the precise instructions of the Resolution and terms of reference should be kept to

and the wording of the last sentence on page 4 commencing after vessel changed to read "to take all necessary measures to prevent any fishing contrary to NAFO conservation measures.

The Canadian representative welcomed the suggestion of the USSR in adopting the wording of the Resolution. There being no further comments the Chairman stated the text as amended was generally accepted (Appendix IX).

The EEC representative stated they accepted the USSR suggestion for rewording the last paragraph on page 4 but they supported Japan in that we must be clear on our invitation for new members. The EEC agreed with Canada that the invitation was not excluded with the wording in the Canadian paper.

The Chairman stated Canada indicated there would be minor amendments to the aide memoire and the question of timing and procedure must now be addressed. He indicated that if it was the wish of the Committee that this will be a demarche from all members then this Committee must look at timing and its responsibility to ensure it has the approval of all Contracting Parties. In this regard, the Chairman indicated the Committee may have to get the General Council's approval and asked for comments.

25. The Canadian representative agreed the Committee needed guidance on timing and secondly on the modalities -who, where, and under what circumstances it should be delivered. Canada referred to the statement made by Denmark with regard to the sharpness in the aide memoire if it is to be considered as a second round. Canada considered the aide memoire as a first step and with regard to timing Canada felt the notes should be delivered sooner than later. Canada stated the Committee should try to agree to the modalities that day and if it was decided for procedural reasons that General Council approval was required then consideration should be given to the procedure for a mail vote prior to the annual meeting. In respect to the modalities, Canada suggested two or three Contracting Parties send representatives as a group to deliver notes to non-Contracting Parties on behalf of all Contracting Parties. Canada recognized the problems some countries may have with regard to diplomatic relations with some of these non-Contracting Parties but rosters could be developed and Contracting Party representatives could deliver the notes to appropriate nations. The details of dates and times could be worked out later.

The representative of Denmark (in respect of the Faroe Islands and Greenland) indicated there was general consensus for the proposal, and support for Canada in that the Committee should not wait too long to deliver the notes. If it were to wait for approval of the General Council at the annual meeting it may be a little awkward in that a whole year will have passed since initiating this process.

26. The Chairman indicated another meeting was required. Meanwhile, the Contracting Parties could reflect on the difficult matters and come back to the next meeting prior to the annual meeting of NAFO and discuss those matters again. The Chairman stated he was not sure whether approval from the General Council was required or whether a mail vote could be taken. He referred the question to the Executive Secretary. The Executive Secretary indicated the authority for a mail vote was there and that he would proceed in accordance with the decision of this meeting. The EEC representative suggested that the notes should finally be signed by the Chairman of the General Council and in this way carry more weight. On the matter of delivery the EEC supported the Canadian approach which might allow it to be done on a diplomatic level. Each Contracting Party is best able to determine how to deliver the notes. He indicated the Committee should attempt to get a mandate for the next meeting which

should be prior to the annual meeting. Each Contracting Party attending that meeting should arrive with a mandate from their authorities to take such a decision. He further stated that if Contracting Parties did not attend the meeting it would be assumed they agreed to the mandate.

The Chairman said this was a constructive idea and the Executive Secretary should write to all Contracting Parties to indicate a mandate was needed to carry out this action. The Executive Secretary agreed that this was a suitable approach.

The Canadian representative, in response to the comments by the EEC and Denmark, was prepared to agree to the suggestion put forth that another meeting be held. As to timing, Canada would like to see the notes delivered in mid-May or early June with the next meeting recommended for mid-May. Canada would be concerned at any additional delay.

The Chairman stated the consensus was for another meeting to discuss the certificate and protocol and the date of mid-May/early June had been suggested. He called for comments on the timing of the next meeting. After a great deal of discussion, the date of June 4 and 5 in Dartmouth was decided.

27. The Chairman stated that item 9, Elaboration and formulation of recommended measures to resolve the problem, is a concrete part of Item 8 and is the translation of any conclusions reached in item 8 into concrete recommendations or decisions. This item is the elaboration and formulation of recommended measures to resolve the problem. The reason for the need for another meeting is that under item 8 Canada had produced two papers with suggestions which raised many questions and that all agreed to consider constructively the ideas contained in those papers but must reexamine in particular the GATT question. The Committee would think about the effectiveness of Canada's proposals, and would see if and how those measures could be implemented in National law and would come back to the meeting in June to elaborate and formulate recommended measures.

The Canadian representative, for the record, stated that it was the Committee's intention to recommend the Executive Secretary draft a letter to all General Council members on the subject of the draft aide memoire stating that a consensus had been reached on the text which would be attached to the letter and that at the next meeting of the Committee, scheduled to take place June 4 and 5, the Committee would seek a mandate to deliver the note to non-Contracting Parties at the very earliest opportunity.

The Chairman agreed this was what was concluded with regard to the diplomatic note. He then asked for suggestions on details on how this would be implemented - whether it should be signed by the Chairman of the General Council or an unsigned diplomatic note.

28. The EEC representative again stated the notes should be signed by the Chairman of the General Council and delivered through diplomatic channels but would draw attention to the fact that the EEC has no government per se and some procedural changes would have to be made there. The EEC agreed with the Canadian proposal that the Executive Secretary send a note to all Contracting Parties for approval of the aide memoire and if approval was not received from Contracting Parties after a certain time, the Committee would consider that Contracting Party's approval of the procedures.

The Chairman envisions that there will not be much discussion on this point at the meeting in June as it is hoped that the note will have been adopted by consensus. However, he stated that some Contracting Parties

may approve the notes in principle but may attend the meeting in June and request some changes. It was hoped that this would not happen and that there would be little discussion at the June meeting.

The Canadian representative suggested one additional point for the Executive Secretary in drafting his letter to General Council members. Contracting Parties should come to the next meeting with a mandate to approve the delivery of the note and to make concrete suggestions as to by whom and when the note would be delivered to avoid lengthy discussions on this point.

The representative of Denmark (in respect of the Faroe Islands and Greenland) supported the Canadian proposal. To avoid lengthy discussions at the next meeting, he suggested the Committee make proposals in the Executive Secretary's letter and then Contracting Parties can comment on the proposals. He also stated the letter should go right after this meeting.

The Chairman agreed and stated with regard to delivery of the note, by whom and when partially depends on who has diplomatic representation with the non-Contracting Parties. He suggested those procedures could be discussed informally with the Executive Secretary prior to his writing the letter. The Executive Secretary agreed. The Chairman concluded that the issue of handling the diplomatic demarche had been solved.

The EEC representative stated Contracting Parties not present must be offered the opportunity to comment and the time to reply. Also, after replies have been received the letter should be sent a second time with the recommendations included and request comments again. He stated this could reduce discussion at the next meeting and would see a satisfactory demarche produced without dissenting votes.

The Executive Secretary stated the dispatch of the letter would not be delayed and would be formulated the following week and sent to all Contracting Parties.

The Chairman stated he assumed the mandate will have been given when the redrafted letter, if required, is circulated and the time limit had expired for comments.

The Canadian representative supported the proposal the Chairman had formulated earlier, that Contracting Parties think constructively about the certificate of harvest origin and the protocol, including legal, practical and other implications, and return in June prepared to discuss them in detail.

29. Under item 11, Other Matters, none were raised.
30. Under item 12, Adjournment, the meeting was adjourned 31 January 1991 at 1610.

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties in the Regulatory Area (STACFAC)

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APPENDIX IIFirst Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties (STACFAC)Holiday Inn, Dartmouth, Nova Scotia, Canada
30-31 January 1991Agenda

1. Opening by the Executive Secretary, L. I. Chepel
2. Election of the Chairman and the Vice-Chairman
3. Appointment of Rapporteur
4. Adoption of Agenda
5. Review and Elaboration of Rules of Procedure
6. Review of all available information on activities of Non-Members vessels in the NAFO Regulatory Area (national reports)
7. Review of all available information on landings and transshipments of fish caught in the Regulatory Area by non-Contracting Parties (national reports)
8. Examination and assessment of all options open to NAFO Contracting Parties
9. Elaboration and formulation of recommended measures to resolve the problem
10. Time and Place of Next Meeting
11. Other Matters
12. Adjournment

Standing Committee on Fishing Activities of Non-Contracting
Parties in the Regulatory Area (STACFAC)

RULES OF PROCEDURE

1. There shall be a Standing Committee on Fishing Activity of Non-Contracting Parties in the Regulatory Area (STACFAC) which shall:
 - a) obtain and compile all available information on the fishing activities of non-Contracting Parties in the Regulatory Area, including details on the type, flag and name of vessels and reported or estimated catches by species and area;
 - b) obtain and compile all available information on landings, and transshipments of fish caught in the Regulatory Area by non-Contracting Parties, including details on the name and flag of the vessels; the quantities by species landed, transshipped; and the countries and ports through which the product was shipped;
 - c) examine and assess all options open to NAFO Contracting Parties including measures to control imports of fish caught by non-Contracting Party vessels in the Regulatory Area and to prevent the reflagging of fishing vessels to fish under the flags of non-Contracting Parties;
 - d) recommend to the General Council measures to resolve the problem;
2. The Committee shall elect from among its members, to serve for two years, its own Chairman, who shall be allowed a vote. The Executive Secretary shall be an *ex officio* member, without vote.
3. Voting procedure of the Committee shall be in accordance with Rule 2 of the Rules of Procedure for the General Council.

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties in the Regulatory Area (STACFAC)

Non-Member Fishing Activity in the Regulatory Area - 1990

by

Canadian Delegation

1.0 INTRODUCTION

This report examines the activities of NAFO non-member vessels that fish groundfish species in the NAFO Regulatory Area. The report attempts to distinguish between "non-member vessels", such as those from Korea or the USA and "flag of convenience vessels", generally crewed by western Europeans.

The information sources for this report are Canadian air surveillance and courtesy boardings¹ conducted by Canadian officials on non-member vessels. Catch reports to NAFO are used in the case of USA vessels.

2.0 FLEET PROFILE

During the 1984-89 period, approximately 190 NAFO member vessels fished groundfish in the Regulatory Area on an annual basis. By comparison, non-member vessels have steadily increased from 11 in 1984 to 47 in 1989 and 44 in 1990. Table I provides a full summary of groundfish vessels for the 1984-89 period.

TABLE I - GROUNDFISH VESSELS 1984 - 90							
	1984	1985	1986	1987	1988	1989	1990*
Member Nations	159	191	196	182	179	198	222**
Caymen Islands	0	1	1	1	1	1	1
Korea	1	1	1	1	3	5	6***
Mauritania	0	0	1	0	1	1	0
Malta	0	0	0	0	0	1	1
Panama	4	8	12	12	20	24	24
St. Vincents	0	0	0	0	1	1	1
USA	0	14	15	9	11	14	9
Mexico/Chile	6	6	4	4	4	0	0
Venezuela	0	0	0	0	0	0	2
Non-Member Nations	11	30	30	29	41	47	44
Total	170	221	226	211	220	245	266

* Preliminary data.

** Thirteen (13) Norwegian vessels fished exclusively for capelin.

*** May include a squid fishing vessel registered in Taiwan.

¹ Non-member vessels are not subject to NAFO Conservation and Enforcement Measures and, therefore, are not required to permit NAFO inspectors onboard.

The 1990 non-member fleet included 24 crewed by Western Europeans (7 pair trawlers, 10 single trawlers), 11 crewed by Koreans and 9 crewed by Americans².

Table II provides a list of non-member vessels and crew nationalities that fished in the NAFO Regulatory Area in 1990:

TABLE II - NON-MEMBER VESSELS 1990		
<u>WESTERN EUROPEAN</u>	<u>KOREA</u>	<u>AMERICAN</u>
Colombo III - Panama	Marsopla - Cayman Is.	Constellation
Columbo IV - Panama	Hao Quang #3 - Korea	Helenic Spirit
Columbo V - Panama	Golden Venture - Korea	Mr. Simon
Columbo VI - Panama	Puk Yang II - Korea	Miss Lori Lou
Columbo VII - Panama	Sam Won Ho - Korea	Northern Venture
Columbo VIII - Panama	Cesped - Korea	Unidentified (4)
Anita I - Panama	Rainbow - Malta	
Elly I - Panama	Hes Wen No. 1 - Korea	
Alpes II - Panama	Peonia #7 - Panama	
Alpes III - Panama	Peonia #9 - Panama	
Santa Joana - Panama	Great Splendor - St. Vincent's	
Maria de Lourdes Verde - Panama		
Espadarte - Panama		
Porto Santo - Panama		
Pescamex III - Panama		
Pescamex IV - Panama		
Amazones - Panama		
Acuario Uno - Panama		
Acuario Dos - Panama		
Classic Belair - Panama		
Rio Gabriel - Panama		
Leone III - Panama		
Pescagel - Venezuela		
Bacanova - Venezuela		

²Prior to 1985, there were no observations of USA groundfish vessels in the NAFO Regulatory Area. Since 1985, an average of 12 USA vessels have frequented the NRA annually. This average is believed accurate. However, due to the nature of trips (4-6 days in the NRA) and infrequent air surveillance, it is conceivable that the average could be higher.

3.0 CATCH STATISTICS

3.1 Method of Determining Catch Statistics

In the absence of catch reports to NAFO, the catch statistics for each non-member nation are obtained primarily from logbooks/verbal conversations with masters during courtesy boardings combined with an estimate for non-boarded periods. Estimated statistics represent a "best estimate" of vessel activity and catches. A brief step by step method to determine catches for non-member vessels follows:

1. Courtesy boarding and sighting data are obtained.
2. Sighting information which is covered by courtesy boardings is omitted.
3. Days on ground are counted between sightings that are less than 30 days apart and totalled. Where a vessel is sighted greater than 30 days apart, seven days is attributed to the vessel for each sighting.
4. The known days when vessels are not in the Regulatory Area (e.g. port visits, etc.) are counted and subtracted from days on ground.
5. The final figure obtained is then reduced by 15% to account for bad weather, steaming, mechanical breakdown, etc.
6. The final days on ground are totalled for each nation.
7. Courtesy boarding data for each nation is analyzed to determine the major fisheries engaged in, as well as to determine catch rates.
8. The percentage of time (based on courtesy boarding) spent engaging in each fishery is applied to the total estimated days for each nation.
9. As a result, an estimate of catch by species for each nation is obtained.
10. This estimated catch and effort is added to the courtesy boarding data to obtain a combined total catch for each nation/fishery.

3.2 Overview - 1988

During 1990, 266 groundfish vessels from fifteen nations fished in the NAFO Regulatory Area.³ Eight of these nations are NAFO members and accounted for 222 vessels. Seven (7) non-member nations⁴ accounted for the remaining 44 groundfish vessels.

In 1990, it is estimated that non-member nations caught 48,800 mts of groundfish consisting of 15,400 mts of cod, 19,400 mts of redfish, 7,300 mts of flounder, 33 mts of Greenland Halibut and 3,300 mts of various other species. Table 3 and 4 gives a breakdown of catch for each non-member nation which fished in the NAFO Regulatory Area in 1990.

NATION		Vessels	Effort	Catch	C/R
Non-Members	Caymen Is.	1	250	2,500	10.0
	Korea	6	1,000	17,200	17.1
	Malta	1	200	1,500	7.5
	Panama	24	2,700	21,700	8.0
	St. Vincents	1	200	3,000	16.5
	Venezuela	2	50	500	12.0
	USA	9	225	2,000	8.8
TOTAL		44	4,625	48,800	10.6

³ Thirteen (13) Norwegian vessels fished exclusively for capelin.

⁴ No vessel flying the flag of Malta fished in the Regulatory Area until 1989.

Table 4: Breakdown of the 1990 Groundfish Catches For Each Nation

NATION		Estimated Catch (Mts)*			
		Cod	Redfish	Flounder	Other
Non-Members	Caymen Is.		600	1,900	
	Korea	5,900	7,700	3,400	200
	Malta		1,500		
	Panama	8,900	6,300		3,300
	St. Vincent's		3,300		
	Venezuela	600		2,000	
TOTAL		15,400	19,400	7,300	3,500

* Excludes 3,300t of Greenland Halibut

Explanatory Notes:

Catch information is generally provided verbally by master(s) and, therefore, the separation of catches on a divisional basis cannot be completed accurately. In 1990, it is believed that all (95%) flounder catches were taken in 3NO, cod catches were primarily (60 - 70%) from 3NO/3M, Greenland Halibut catches were primarily (90%) from Division 3L and redfish catches were split between 3O/3N/3M.

The catch estimate procedure is completed on the basis of registered nation/vessels not crew nationality; therefore, the division of catches by crew nationality cannot be completed accurately. In 1988, it is believed that most cod (60%) catches, all Greenland Halibut catches and a portion (33%) of redfish catches were taken by vessels crewed from Western Europe with the remaining catches taken by vessels crewed from Korea or USA.

3.3 Catch Overview - 1984-1990

Since 1984, there has been an increase in the amount of effort by all nations fishing in the NAFO Regulatory Area. In 1984, the total effort by all nations was 8,820 days, whereas the seven year average stands at 16,809 days per year.

Non-member activity has increased dramatically from 840 days in 1984 to 4,625 days in 1990. This is reflected by an increase in Korean-crewed vessels and registry transfers by Western European vessels.

The average yearly total of groundfish catch of all species by all nations fishing in the NAFO Regulatory Area during the 1984 - 90 period was approximately 187,500t.¹

Non-member catches have increased dramatically from 12,000 tonnes in 1984 to 30,000 tonnes in 1987 and 48,800 tonnes in 1990.

From 1984 to 1990 Non-members used an average of 33 fishing vessels per year in the NAFO Regulatory Area. These vessels fished for an average of 2,612 days catching approximately 29,000t of groundfish, an average catch per day of 11 mts (Table 6). The fishing effort for non-members has increased significantly in every year since 1984. Except for 1986 the estimated groundfish catches have also increased.

The yearly average of 29,000 mts of groundfish caught by non-members consisted of a yearly average of 7,114 mts of cod, 12,624 mts of redfish, 7,985 mts of flounder, 472 mts of Greenland Halibut, 857 mts of various "other" species (Table 7). Cod and redfish catches for non-members have increased since 1986. Estimated catches of flounder have decreased since 1986. Greenland Halibut was taken in significant quantities for the first time in 1990.

¹ Excludes 27,300t of capelin taken in 1990.

YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	ESTIMATED CATCH (MTS)	CATCH RATE (MTS/DAY)
1984	11	840	12,000	14
1985	30	1,730	23,500	14
1986	30	2,030	19,300	10
1987	29	2,640	29,400	11
1988	41	3,130	35,200	11
1989	47	3,290	34,900	11
1990	44	4,625	48,800	11
AVG. / YEAR	33	2,612	29,014	11.1

N.B.: Catch reported to NAFO is used for USA ONLY.

YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	3,800	0	8,200	0
1985	7,100	500	15,300	600
1986	4,500	0	14,600	200
1987	5,400	20,900	3,100	0
1988	7,800	23,500	3,000	900
1989	5,800	24,000	4,200	900
1990	15,400	19,400	7,300	3,400
AVG. / YEAR	7,114	12,614	7,985	857

N.B.: 3,300t of Greenland Halibut was taken in 1990.

3.3.1 St. Vincents (Korean crew)

St. Vincent's registered fishing vessel has fished in the NAFO Regulatory Area in 1988, 1989, 1990 catching 400 tonnes (16 days), 3,525 tonnes (187 days) and 3,300 tonnes (200 days) of groundfish respectively.

3.3.2 USA

From 1984 to 1990 an average of ten USA vessels per year fished in the Regulatory Area. These vessels averaged 349 fishing days and 3,000 tonnes of groundfish per year over seven years. Table 7 outlines the fishing activity for 1984 to 1990.

YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	CATCH REPORTED TO NAFO (MTS)
1984	0	0	0
1985	14	370	5,531
1986	15	380	5,770
1987	9	580	3,345
1988	11	560	2,868
1989	14	320	1,500*
1990	9	225	2,000*
AVG. / YEAR	10	349	3,002

* Estimated Catch reported to NAFO.

Table 8 shows the reported catch by major groundfish species since 1984. USA vessels have fished primarily flatfish.

YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	0	0	0	0
1985	84	85	5,362	0
1986	315	4	5,451	0
1987	217	0	3,128	0
1988	266	0	2,602	0
1989	---	-	1,500*	0
1990	---	-	2,000	0
AVG./YEAR	126	13	2,863	0

* Estimated

3.3.3 Mauritania (European crew)

One Mauritanian vessel operated in the NAFO Regulatory Area during 1986, 1988 and 1989. Table 9 shows the Mauritanian fishing activity since 1984.

YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	ESTIMATED CATCH (MTS)	CATCH REPORTED TO NAFO (MTS)
1984	0	0	0	0
1985	0	0	0	0
1986	1	10	0*	0
1987	0	0	0	0
1988	1	60	200	0
1989	1	50	212	4.0
1990	0	0	0	0
4-YR AVG.	1	18	59	3.2

* Estimated catch was 44mts

Table 10 shows the estimated catch by major groundfish species since 1984.

YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	0	0	0	0
1985	0	0	0	0
1986	0	0	0*	0
1987	0	0	0	0
1988	0	0	200	0
1989	0	0	212	0
1990	0	0	0	0
AVG./YEAR	0	0	59	0

* estimated catch was 44 mts.

3.3.4 Cayman Islands (Korean crew)

From 1984 to 1990 one vessel per year fished in the Regulatory Area. Table 11 outlines the fishing activity from 1984 to 1988.

YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	ESTIMATED CATCH (MTS)	CATCH RATE (MTS/DAY)
1984	0	0	0	-
1985	1	90	2,000	22.2
1986	1	200	2,400	12.0
1987	1	270	5,300	19.6
1988	1	170	3,500	20.6
1989	1	210	3,000	14.3
1990	1	250	2,500	10.0
AVG./YEAR	1	169	2,671	15.8

Table 12 shows the estimated catch by major groundfish species since 1984.

TABLE 12: BREAKDOWN OF ESTIMATED CAYMAN ISLANDS GROUNDFISH CATCHES FOR 1984-1988				
YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	0	0	0	0
1985	100	0	1,600	300
1986	100	0	2,300	0
1987	0	5,300	0	0
1988	0	3,500	0	0
1989	0	2,500	500	0
1990	0	600	1,900	0
AVG./YEAR	29	1,700	900	43

3.3.5 Korea

During the years 1984 to 1987 one Korean vessel fished the NAFO Regulatory Area while in 1988 three vessels participated and in 1989 and 1990 Korean activity increased to 5 and 6 vessels respectively. Table 13 outlines the Korean fishing activity for 1984 to 1990.

TABLE 13: KOREAN FISHING ACTIVITY FOR 1984-1990				
YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	ESTIMATED CATCH (MTS)	CATCH RATE (MTS/DAY)
1984	1	240	4,900	20.4
1985	1	220	3,400	15.5
1986	1	210	3,200	15.2
1987	1	220	3,000	13.6
1988	3	130	2,100	16.2
1989	5	620	11,800	19.1
1990	6	1,000	17,200	17.2
AVG./ YEAR	3	371	6,514	17.2

Table 14 gives the estimated catch for the major groundfish species during the five year period. The major fishery pursued by Korean vessels was flounder from 1984 to 1986 and redfish for 1987 and 1988. Cod catches have declined steadily over the five year period and redfish has remained at approximately 2000 tonnes for the past two years.

YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	300	0	4,600	0
1985	0	0	3,300	100
1986	100	0	3,100	0
1987	0	2,000	1,000	0
1988	0	1,800	200	0
1989	0	10,800	1,000	0
1990	5,900	7,700	3,400	200
AVG./YEAR	900	3,185	2,371	43

3.3.6 Panama (West European and Korean crews)

During the years 1984 to 1990 an average of eighteen Panamanian registered vessels per year fished in the NAFO Regulatory Area. The number of vessels has risen from a low of ten in 1984 to a high of twenty-four in 1988, 1989 and 1990. Panamanian flag vessels averaged 16,342 tonnes of groundfish in almost 1600 fishing days for each of the past seven years. Table 15 outlines the fishing activity for 1984 to 1990.

YEAR	# OF DIFFERENT VESSELS	ESTIMATED EFFORT (DAYS)	ESTIMATED CATCH (MTS)	CATCH RATE (MTS/DAY)
1984	10	600	7,100	11.8
1985	14	1,050	15,700	4.9
1986	22	1,230	12,000	9.8
1987	16	1,570	18,900	12.0
1988	24	2,150	24,500	11.4
1989	24	1,850	14,500	7.8
1990	24	2,700	21,700	8.0
AVG./YEAR	18	1,590	16,342	11.2

* Includes four trawler vessels formerly registered in Mexico/Chile.

Table 16 gives the estimated catch for the major groundfish species since 1984.

TABLE 16: BREAKDOWN OF ESTIMATED PANAMIAN GROUND FISH CATCHES FOR 1984-1990*				
YEAR	ESTIMATED CATCH (MTS)			
	COD	REDFISH	FLOUNDER	OTHER
1984	3,500	0	3,600	0
1985	7,000	400	8,100	200
1986	4,200	0	7,800	0
1987	5,300	13,600	0	0
1988	7,500	16,100	0	900
1989	5,700	6,500	1,400	900
1990**	8,900	6,300	0	3,200
AVG./YEAR	6,014	6,129	2,985	743

* Includes estimated catches of four pair trawler vessels formerly registered in Mexico/Chile.

** 3,300 tonnes of Greenland Halibut was taken in 1990.

3.3.7 Malta (Korean Crew)

In 1989 and 1990, one Maltese vessel was observed in the NAFO Regulatory Area. It is estimated that this vessel caught 711 tonnes of groundfish in 45 days during 1989 and 1,500 tonnes of groundfish during 200 days in 1990.

3.3.8 Venezuela (Western European)

In 1990, one Venezuelan pair trawler was observed in the NAFO Regulatory Area. It is estimated that this vessel caught 600 tonnes of cod in 50 days.

Standing Committee on Fishing Activity by Non-Contracting
Parties in the Regulatory Area (STACFAC)

Paper on Non-Contracting Party Activity in the Regulatory Area

submitted by

EEC Delegation

1. Sightings

In 1988, 1989 and 1990 seven inspection patrols were conducted by European Community inspection vessels in the Regulatory Area. Details of the sightings of Non-Contracting Party fishing vessels in the Regulatory Area made during these inspection patrols are to be found in table 1 annexed to this paper. Details of the vessels sighted are given at table 2.

During 1990 a total of 24 different Non-Contracting Party vessels were identified:

15 Panamanian registered vessels		
4 Korean	"	"
1 Cayman Islands	"	"
1 Maltese	"	"
2 Sierra Leone	"	"
1 USA	"	"

The Panamanian registered vessels, with one exception sighted in 3N, were all seen in 3M on more than one occasion.

The Korean registered vessels on the other hand tended to congregate in 3N.

2. Fishing patterns and catches

It is impossible to give a firm estimate of the catches of the Non-Contracting Party vessels. The length of time which they spend in the Regulatory Area and their target species are not known for certain. Estimates of the overall quantities taken would obviously depend on various uncertain factors, particularly the number of fishing trips undertaken during the year. A breakdown of the catches made by the vessels would obviously be an even more difficult task.

According to information learned from courtesy visits and radio "boardings" the vessels registered in Korea, Sierra Leone and Malta remain in the Regulatory Area all year round and discharge approximately every 50 days. Their main fishing grounds are apparently in 3N.

The Panamanian registered vessels appear to be mainly crewed by Community nationals and owned or financially backed in part by Community interests.

Whilst information on landings by some of these vessels gives an indication of the sort of quantities involved (see Part 3 "Landings"), it is felt that an extrapolation could lead to a misleading conclusion.

In fact, the only conclusion which can safely be arrived at is that there is fishing activity undertaken by Non-Contracting Party vessels in the Regulatory Area.

3. Landings

According to information gathered from interviews with skippers during courtesy boardings or radio contacts it is clear that there is a great deal of diversity amongst the Non-Contracting Party vessels in terms of both their catch and their ports of landing. There are indications that cod, for example, presented in a wet, salted form is landed into Community ports. It has also been reported that frozen cod may have been destined for the Community market. Redfish and some other species however seems to be ultimately destined for the Japanese market.

In so far as landings into the Community are concerned it was observed that the trade statistics for imports of typically NAFO products of Panamanian origin showed a level which seemed much lower than was to be expected. On the basis of this apparent discrepancy further enquiries were launched with the co-operation of customs authorities.

Information on landings of some of the Non-Contracting Party vessels sighted in the Regulatory Area, obtained from customs declarations, is summarized in table 3 attached.

The quantities declared represent an annual catch per vessel of 961 tons.

According to the customs declarations the redfish was re-exported to Japan, whereas the other species were cleared and entered into free circulation in the Community.

During the enquiries certain customs irregularities were discovered which in some cases gave rise to further investigations. So far these enquiries have identified under payments of customs duties amounting to ECU 500.000,-. Nevertheless, any suspicion that a large-scale under-declaration of their imports by the vessels concerned has not been borne out.

It is not possible to build up a full picture of the landings of the vessels without undertaking wide-scale enquiries in numerous ports in the Community. The investigations carried out so far however have served to bring to the attention of customs authorities in Member States the need to pay attention to imports from the vessels in question. The matter will continue to be pursued as resources permit.

Table 1.

SIGHTINGS MADE BY EEC INSPECTION VESSELS OF NON-CONTRACTING PARTY FISHING VESSELS

Inspection vessels							
	Vigilant May/June 1988	Fritjhof Oct./Dec. 1988	Honorio Barreto Apr./June 1989	Eastella Sept./Oct. 1989	Southalla Apr./May 1990	L.E. Elthne Aug./Sept. 1990	Northern Horizon Sept./Oct. 1990
Panama	12	10	11	16	0	7	12
Korea	1	2	-	3	2	3	-
Mexico	5	2	-	-	-	-	-
Mauritania	-	1	-	-	-	-	-
U.S.A.	3	-	1	2	-	-	1
St. Vincent	-	1	-	-	-	-	-
Cayman Islands	-	-	-	-	1	1	-
Malta	-	-	-	1	1	1	-
Sierra Leone	-	-	-	-	2	-	-

XIV/C/3

Brussels, 28 January 1991
MN/mpb

Table 2.

VESSELS OF NON-CONTRACTING PARTIES SIGHTED IN THE REGULATORY AREA

Flag state and name of vessel	Times of sightings and areas	Comments
<u>Panama :</u>		
Maria del Lourdes Viera Viera	5/88:3M, 10/89:3M	
Pescamex I	5/88:3M, 11/88:3M, 9/89:3M, 10/89:3M	
Pescamex II	5/88:3M, 11/88:3M, 9/89:3M, 10/89:3M	
Alamo	5/88:3M	
Anita I	5/88:3M, 4/90:3M, 8/90:3M, 10/90:3M	
Elly	5/88:3M, 4/90:3M, 8/90:3M, 10/90:3M	
Porto Santo	5/88:3M, 10/89:3M, 5/90:3M	
Leon II	5/88:3M	
Alpes I	5/88:30, 5/89:3M	
Peonia No. 1	5/88	
Acuario Uno	11/88:3M, 8/90:3M, 10/90:3M	
Acuario Dos	11/88:3M, 9/89:3M, 8/90:3M, 10/90:3M	
Peonia No. 7	11/88:3M, 5/89:3M	
No. 1 Michele	11/88:3M, 5/89:3M, 9/89:3M	
Colombo III	11/88:3M, 4/89:3M, 10/89:3M	
Colombo IV	11/88:3M, 4/89:3M, 9/89:3M, 10/89:3M	
Colombo V	11/88:3M, 8/90:3M, 9/90:3M, 10/90:3M	Ex Avior (Mex.)
Alpes II	5/89:3M	
Colombo VI	9/89:3M, 8/90:3M, 9/90:3M, 10/90:3M	Ex Alpes (Mex.)
Colombo VII	9/89:3M, 10/89:3M	
Colombo VIII	9/89:3M, 10/89:3M	Ex Nuevo Mundo (Mex.)
Espardarte	9/89:3M, 4/90:3M, 5/90:3M, 10/90:3M	
Peonia No. 9	9/89:3M	
Santa Joana	10/89:3M, 4/90:3M	
Amazonas	10/90:3M	
Classic Bel Air	9/90:3M	
Pescamex III	4/90:3M, 10/90:3M	
Pescamex IV	4/90:3M, 10/90:3M	
Leone III	8/90:3M	
Rio Cabril	10/90:3M	
<u>Korea :</u>		
Puk Yang XI	4/90:3L	
Puk Yang II	5/88:3L, 11/88:30, 8/90:3M	
Cespeo	9/89:3M	
Hao Quang No. 3	9/89:3M, 30	
Sam Won Ho	5/89:3M, 9/89:3M, 8/90:3M	
Golden Venture	8/90:3M	
<u>Mexico :</u>		
Nuevo Mundo	5/88:3M	New Colombo VIII (Pan.)
Avior	5/88:3M, 11/88:3M	New Colombo V (Pan.)
Alpes	5/88:3M, 11/88:3M	New Colombo VI (Pan.)

Flag state and name of vessel	Times of sightings and areas	Comments
<u>Mauretania :</u>		
Mahapu 3	11/88:3N	
<u>U.S.A. :</u>		
Ranger	5/88:30	
Defender	5/88:30, 9/89:3N	
Endurance	5/88:30	
Diana Lyn	5/89:30	
Lady Sharell	9/89:30	
Miss Lisa	10/90:3L	
<u>Malta :</u>		
Rainbow	9/89:3N, 4/90:3L, 8/90:3N, 9/90:3N	
<u>St. Vincent :</u>		
Great Splendor	11/88:30	New Sierra Leone flag?
<u>Cayman Islands :</u>		
Marsopla	11/88:30, 5/90:3N, 8/90:3N	
<u>Sierra Leone :</u>		
Great Splendor	4/90:3L, 4/90:3N	Ex St.Vincents flag?
Hao Quang III	4/90:3L	Ex Korean flag?

28 January 1991
HN/mpb

Table 3.

SUMMARY OF LANDINGS FROM NON-CONTRACTING PARTY VESSELS
SIGHTED IN THE REGULATORY AREA

Species	Tons (calculated live weight)
Redfish	4,679.0
Cod	15,038.0
Flounder	45.2
American Plaice	667.0
Skate	506.0
Yellowtail	120.9
Other	104.0
TOTAL	21,160.1

The above quantities were landed by 11 vessels during 1988 and 1989. This represents an annual catch by vessel of 961 tons.

APPENDIX VI

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties in the Regulatory Area (STACFAC)

Non-Contracting Party Activity in the Regulatory Area

submitted by

USSR Delegation

The following sightings of non-member fishing vessels were made in the Regulatory Area during inspection patrol, conducted by the USSR inspection vessel "Umbrina" in period of April 25 - May 5, 1990:

Flag state and name of vessel	Area of sightings
<u>Panama</u>	
Pescamex III	3L
Pescamex IV	"
Classic de Lare	"
Maria de Lourdes Verde	"
Amazonus	"
Elly I	"
Anita I	"
Alpes II	"
Porto Santo	"
Espadarte	3M
<u>Korea</u>	
Rainbow	3L
Pun Yang II	"
Sam Won Ho	3N
<u>St. Vincent</u>	
Great Splendor	3L

The length of time spent in the Regulatory Area by these vessels and their target species are not known.

At the same time it should be noted that these 14 vessels were sighted during very short period of inspection - 11 days only.

APPENDIX VII

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties in the Regulatory Area (STACFAC)

CERTIFICATE OF HARVEST ORIGIN

submitted by

Canadian Delegation

PURPOSE

To attest that fish or fish products made wholly or in part from groundfish species regulated by NAFO were caught either within or outside of the NAFO Regulatory Area.

APPLICATION

All NAFO Contracting Parties would agree to require that imports of fish or fish products made wholly or in part from groundfish species regulated by NAFO be accompanied by a certificate stating the harvest origin of the fish.

Imports of such fish or fish products would not be permitted without such a certificate. Imports from non-NAFO countries would be permitted as long as they were accompanied by such a certificate.

The certificate would state the nationality of the vessel that harvested the fish, and the geographical area (inside or outside the NAFO Regulatory Area) where the fish was harvested.

The certificate would be issued by an authority empowered by the government of the harvesting country.

Customs authorities from each Contracting Party would be responsible for enforcing the requirement.

BENEFITS

Increases data base.

Does not represent a barrier to trade.

Serves as an essential first step towards further action that could be taken to limit trade in fish caught in the NAFO Regulatory Area by vessels from countries that are not members of NAFO.

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties in the Regulatory Area (STACFAC)

TRADE RELATED MEASURES CONCERNING FISH HARVESTED INCONSISTENT
WITH NAFO CONSERVATION MEASURES

submitted by Canada

1. Background

Fisheries conducted in the NAFO Regulatory Area by vessels of States which are not members of the Organization and which, therefore, operate outside the NAFO conservation regime, undermine that regime and render NAFO stock management objectives unattainable. The problem is worsening as the number of vessels from non-NAFO States operating in the NAFO Regulatory Area grew from 11 in 1984 to approximately 44 in 1990.

Recognizing that the problem exists in part because a market exists for fish harvested inside the NAFO Regulatory Area but outside the NAFO regime, the Organization resolved during its 12th Annual Meeting in September, 1990, as follows:

- "(4) All Contracting Parties should take effective measures to reduce the benefits of any fishing activities undertaken by vessels from non-Contracting Parties in the NAFO Regulatory Area where such fisheries take place contrary to NAFO conservation measures, with the aim of causing them to withdraw from such activities;
- (5) In full respect of the international obligations of Contracting Parties, further measures should be developed for consideration by the General Council at its 1991 annual meeting, including the possibility of introducing a system under which all Contracting Parties would require that all fish and fish products of a species managed by NAFO, imported from non-Contracting Parties whose vessels fish in the NAFO Regulatory Area, be accompanied by a certificate indicating harvest origin outside that Area" (NAFO/GC Doc. 90/8).

In addition, the Organization determined at that Meeting that the Standing Committee on Fishing Activities of Non-Contracting Parties in the Regulatory Area (STACFAC) would examine options and make recommendations on measures to cause non-Contracting Parties to withdraw from fishing activities contrary to NAFO Conservation Measures in the Regulatory Area, in particular, "...measures to control imports of fish caught by non-Contracting Party vessels in the Regulatory Area..." (NAFO/GC Doc. 90/9).

2. Trade Related Measures

So long as markets exist for fish and fish products harvested by non-NAFO vessels in the NAFO Regulatory Area, non-NAFO member fishing will probably continue in the Regulatory Area and the conservation of fish stocks will be further damaged: the perception that there is short-term profit to be made in fishing without the constraints and additional costs imposed by complying with NAFO conservation measures likely will continue to attract non-member vessels. It may be possible, however, to limit the availability of these markets through an international agreement which has as its goal the restriction of trade in fish taken contrary to the conservation regime created under the NAFO Convention.

Such an agreement could be modeled on Protocol II to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (the "Wellington Convention") in which the parties to the Protocol undertake, in order to further the Wellington Convention's objective of eliminating long driftnets in the South Pacific, to take measures to restrict driftnet fishing activities. These measures include prohibiting the transshipment of driftnet catches within areas under the parties' fisheries jurisdiction, and may also include measures to prohibit the landing of driftnet catches, their processing and importation (whether or not in processed form), and restriction of port access and servicing for driftnet fishing vessels.

Adopting the precedent of this Protocol, therefore, the agreement envisaged would be a protocol to the NAFO Convention, having as its object the enhancement of the conservation of the fishery resources managed by NAFO through the elimination of the benefits of fishing in the Regulatory Area contrary to NAFO conservation measures. Parties to the new protocol would prohibit in areas under their jurisdiction trade in fish (whether or not in processed form) which had been harvested in the NAFO Regulatory Area inconsistent with conservation measures adopted by NAFO.

The result of the implementation of such a protocol would be that conservation in the NAFO Regulatory Area would be enhanced as parties to it effectively closed their domestic markets to fish taken inconsistent with NAFO conservation measures. The protocol would come into force when no less than six parties to the NAFO Convention had ratified, accepted or approved it. It would be reasonable to expect that, after coming into force, the next to become parties to it would be other NAFO members as they stand to gain the most from the protocol. However, the protocol would be open to any other States which wished to accede: as in the case of Protocol II to the Wellington Convention, States which are less immediately involved in the problem being addressed by the protocol but which, nevertheless, wish to contribute to the solution, may also become party to the protocol. Moreover, the accession of non-NAFO States such as the USA, which are major importers of fish, would significantly improve the likelihood that all major markets eventually could be closed.

Such a protocol would necessarily be drafted bearing in mind the need for consistency with obligations in existing multilateral trade agreements. Article XX(g) of the GATT, for example, might provide a basis for some of these trade related measures.

First Meeting of the Standing Committee on Fishing Activity
by Non-Contracting Parties (STACFAC)

DRAFT AIDE MEMOIRE
(For joint diplomatic demarches)

The Northwest Atlantic Fisheries Organization (NAFO) was established in 1979 inter alia to implement obligations under international law regarding conservation and management of fishery resources in the Northwest Atlantic beyond the 200-mile zones of the coastal states of the region, an area which the NAFO Convention designates as the NAFO Regulatory Area.

Under the 1982 United Nations Convention on the Law of the Sea, which is generally regarded as reflecting customary international law with respect to fisheries, the right to fish on the high seas is qualified: Articles 116, 117, 118, 119 and 63-2 are relevant. Article 117, in particular, states that "All States have the duty to take, or co-operate with other States, in taking such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas".

NAFO manages numerous important stocks of fish occurring in the NAFO Regulatory Area, including stocks that straddle the 200-mile zone of the principal coastal state, Canada. The NAFO Regulatory Area has been divided into alphanumeric divisions as described in the attached map. It sets Total Allowable Catch (TACs), quotas and other conservation measures for the NAFO Regulatory Area. Fisheries conducted in the NAFO Regulatory Area by vessels of countries that are not members of NAFO, and that are therefore operating outside the NAFO conservation regime, undermine that conservation regime and make NAFO stock maintenance objectives unattainable.

The number of vessels from non-member countries fishing in the NAFO Regulatory Area has steadily increased from 11 in 1984 to 44 in 1990. Total catches by such vessels are estimated to have increased over the same period by some 65-70% and are now equal to approximately 35% of the catches taken by Contracting Parties in the NAFO Regulatory Area. More specifically, it is estimated that catches by non-Contracting Parties have increased from an estimated 10,000 tonnes in 1984 to an estimated 49,000 tonnes in 1990.

In the face of declining stocks, the TACs for key groundfish stocks, notably cod in division 3NO, American plaice in division 3LNO, and redfish in division 3LN, have been significantly reduced over the past two years leading to reduced fishing opportunities for fishermen of NAFO member countries. As a result of these reductions, the fishing activities of the NAFO Contracting Parties and the fishing communities of the Parties dependent on such activities are undergoing an extremely difficult period.

PARAGRAPHS REGARDING FISHING ACTIVITY OF SPECIFIC TARGET COUNTRY

PANAMA:

Fisheries conducted by vessels registered in Panama represent the single greatest component of this growing non-NAFO member fleet as shown on the attached table. The number of Panamanian-registered vessels fishing in the NAFO Regulatory Area has increased from 4 in 1984 to 24 in 1990. They make up more than half of the total number of vessels sighted in 1990 registered in non-NAFO member countries.

Based on the number of vessels sighted, catches by vessels registered in Panama, primarily cod and redfish, are estimated to represent about half of the total catches by vessels registered in non-member countries. As Panama is not a NAFO Contracting Party, it has not received a quota for any of the stocks it harvests in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on the various stocks concerned.

REPUBLIC OF KOREA:

Estimates are that Korean-owned, operated or chartered vessels have been harvesting an increasing amount of groundfish in the NAFO Regulatory Area. Since 1987, Korean fishing effort has focused on two redfish stocks managed by NAFO: 3LN redfish, a straddling stock, and 3M (Flemish Cap) redfish, a stock found wholly in international waters. As the Republic of Korea is not a NAFO Contracting Party, it has not received a quota for any of the stocks it harvests in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on the various stocks concerned.

USA:

Since 1984, an average of 10 U.S. vessels have frequented the NAFO Regulatory Area annually. As the USA is not a NAFO Contracting Party, it has not received a quota for any of the stocks it harvests in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on the various stocks concerned.

CAYMAN ISLANDS:

Each year since 1985, one vessel from the Cayman Islands has fished in the NAFO Regulatory Area. As the Cayman Islands is not a NAFO Contracting Party, it has not received a quota for any of the stocks it harvests in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on the various stocks concerned.

MALTA:

One Maltese vessel has been operating in the NAFO Regulatory Area since 1989. As Malta is not a NAFO Contracting Party, it has not received a quota in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on this stock.

ST. VINCENT AND THE GRENADINES:

Since 1988, one fishing vessel from St. Vincent and the Grenadines has been sighted annually in the NAFO Regulatory Area. As St. Vincent and the Grenadines is not a NAFO Contracting Party, it has not received a quota in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on this stock.

VENEZUELA:

In 1990, two Venezuelan pair trawlers were observed in the NAFO Regulatory Area. As Venezuela is not a NAFO Contracting Party, it has not received a quota in the NAFO Regulatory Area. Continued unregulated fishing outside the framework of the NAFO conservation regime is having an increasingly negative effect on this stock.

The issue of non-member fishing activity in the NAFO Regulatory Area was addressed at the 1990 Annual Meeting of NAFO. A resolution was passed (copy attached) by the General Council of NAFO which outlines possible steps for NAFO Contracting Parties to take to end this activity. The resolution underlines the concern of all NAFO members who view this activity as a serious threat to the conservation of stocks in the NAFO Regulatory Area.

A NAFO Standing Committee has met and is developing proposals for consideration at the annual NAFO Meeting in September 1991. This joint démarche, which is being made by NAFO members to all non-NAFO countries fishing in the NAFO Regulatory Area, reflects the seriousness of NAFO members' concern.

In view of the threat to the conservation of important stocks caused by vessels of _____, all NAFO members, represented at their request by the Government(s) of _____, request the Government of _____ to take all necessary measures to prevent any fishing by vessels registered in _____ contrary to NAFO conservation measures.