



## **EXTRAORDINARY MEETING OF NEAFC**

**22 October 2014 – London**

### **Report**

#### **1. Opening of the meeting**

The President, Jóhán H. Williams, Norway, opened the meeting. All Contracting Parties were represented.

#### **2. Opening statements**

EU made an opening statement, thanking the other Contracting Parties for agreeing to convene this extraordinary meeting at such a short notice.

#### **3. Adoption of the agenda and appointment of rapporteur**

The agenda was adopted as presented in document EM 2014-01.

#### **4. Issues raised in the letter from the EU of 13 October 2014, circulated in HOD letter 14/68**

The EU stated that there had been a particular incident in the Barents Sea that had resulted in the need to get added clarity on an urgent basis. He stated that an EU vessel that had been fishing in international waters in the Barents Sea had been arrested by Russian inspectors and brought to port in Murmansk, Russia.

The EU noted that the vessel had sent position messages pursuant to the Scheme of Control and Enforcement, and that those showed the vessel as remaining within the Regulatory Area according to the coordinates used in the NEAFC database that is established under Article 11.5 of the Scheme. However, the Russian authorities had arrested the vessel for conducting fishing within the national jurisdiction of the Russian Federation.

The EU stated that two separate issues required clarification following this incident. Firstly, if a vessel can be within the Regulatory Area according to the NEAFC database, but be within Russian waters according to the Russian authorities, there is clearly a need for added clarity regarding the borders between the Regulatory Area and Russian waters. Secondly, inspections pursuant to the Scheme result in an inspection report being

forwarded to the flag State, not in the arrest of a vessel in the high seas. Following the arrest of the vessel, the procedures for NEAFC inspections would therefore also need to be clarified.

The EU pointed out that several of the Contracting Parties had vessels conducting fisheries in the Regulatory Area in the Barents Sea, and that this clarification was therefore not only an issue for the EU but for all the Contracting Parties.

The EU further noted that the area where the vessel involved in the incident referred to had been fishing was not the only part of the Regulatory Area where there was uncertainty regarding the exact borders between the Regulatory Area and waters under national jurisdiction. A similar issue of a lack of clarity was also in the western side of the Regulatory Area in the Barents Sea.

The Russian Federation pointed out that the revised coordinates of the limits of Russian national jurisdiction in the Barents Sea had been published in the Notices to Mariners in 2011, which had been fully consistent with the relevant provisions of UNCLOS. All the requirements under UNCLOS had been met. Furthermore, in June this year the Secretariat had been provided with the revised coordinates, with a reference to Article 11.5 of the Scheme.

Norway stated that this seemed to be primarily a dispute between the flag state and the Russian Federation regarding clarity on the delimitation of national jurisdiction and the activity of Russian inspectors. Neither of these was an issue for NEAFC to deal with. All the relevant coordinates as to Norwegian delimitations had been notified to the UN in accordance with UNCLOS, and they had also been notified to the EU. There should therefore not be any lack of clarity on the delimitation of national jurisdiction and the NEAFC Regulatory Area. Even in the event of there being any lack of clarity, the appropriate way of dealing with that would be to contact the coastal State's Ministry of Foreign Affairs and get the exact coordinates of their EEZ from them.

Denmark (in respect of the Faroe Islands and Greenland) stated that he could abide by the view expressed by Norway consistent with which the landward demarcation of the NEAFC Regulatory Area derives exclusively from appropriate Contracting Parties' notifications on the seaward extension of their national maritime jurisdictions, the latter of which, consistent with international law, is a coastal State prerogative.

Iceland stated that it concurred with the views put forward by Norway.

The Secretary pointed out that the extent of waters under national jurisdiction was an issue for coastal States to deal with in accordance with UNCLOS. It was not for NEAFC to determine where the lines are drawn in that context. Nevertheless, he stated that for the proper function of the Scheme it was important to have accurate information on the outer limits of the Contracting Parties' EEZs. The Secretariat had therefore made informal enquiries regarding coordinates of EEZs, but no Contracting Party had submitted revised data. This related not only to the Barents Sea, as there are other areas where the

information in the NEAFC database shows e.g. long straight lines where the legally valid lines are likely to be quite curved.

However, the Secretariat had noted that revised information had been submitted by several Contracting Parties to the Working Group on Blue Whiting. The Secretariat had taken the initiative to use that information to revise the NEAFC database and maps. The Working Group had not received information from all Contracting Parties, so this exercise involved asking for additional information from the Contracting Parties and in some cases it involved communicating with Contracting Parties to correct errors in the data. The idea was to have this as a comprehensive revision of what the NEAFC database considers to be the Regulatory Area. As comprehensive information had not yet been received, the exercise had not been finished at this time. However, the Secretariat already had sufficient information from most of the Contracting Parties in this context. The Russian submission in June had been taken as input into this exercise.

The EU clarified that there was no border dispute with the Russian Federation, he merely needed to know where the outer limits of the Russian EEZ were. The EU stressed that if the coordinates being used in the NEAFC database since 1999 were no longer correct, this put the operation of the Scheme into jeopardy and this was therefore an issue for NEAFC to deal with and not simply a bilateral dispute between two Contracting Parties. This situation would hinder the Secretary in carrying out his duties.

The President stated that he concurred that despite the legally valid coordinates being those submitted to the UN, it was an issue for NEAFC to ensure that the NEAFC database contained accurate information on the borders between the Regulatory Area and the EEZs of the Contracting Parties. He suggested that PECCOE be asked to look at the issue.

All delegations stated their agreement with having PECCOE look at this issue as long as the request to PECCOE could be accurately defined and would not touch upon matters outside of NEAFC's competence. A drafting group was set up to formulate the request to PECCOE.

The EU noted that the limits of the Regulatory Area in the NEAFC database was not the only issue, but also the inspection procedures. He stated that the Russian inspectors had received the information on the positions of the vessel in their role as NEAFC inspectors, they had inspected the vessel in that capacity and then arrested the vessel and brought it to port in Russia. However, the Scheme did not foresee the arrest of vessels, but only the forwarding of inspection reports to the flag State. The EU had been actively conducting inspections in the Regulatory Area for many years and had never arrested any vessel.

The Russian Federation stated that the vessel had not been arrested pursuant to the Scheme but due to it breaching the borders of Russian waters. The provisions of UNCLOS regarding hot pursuit made it irrelevant if the actual arrest had taken place in international waters. He noted that the EU did not explicitly state that the vessel had not entered Russian waters.

The EU pointed out that this brought the discussions back to the issue of the borders between Russian waters and the Regulatory Area. There was no disagreement on the location of the vessel, but there was unfortunately a lack of clarity regarding exactly where the borders were. However, he also stated that there was a need to discuss the procedures for NEAFC inspections if inspectors were acting as NEAFC inspectors, using data they have received as such, before then changing their hats and acting as national inspectors outside the remit of the Scheme.

The Russian Federation stated that the coordinates of the borders had been published pursuant to the relevant provisions of UNCLOS, and that therefore the EU should have been aware of them. He noted that the Russian inspectors had been in the Regulatory Area as NEAFC inspectors, but due to the circumstances of Russian borders being breached they used their rights under UNCLOS to arrest the vessel.

The President noted that inspection procedures might usefully also be looked at by PECCOE, and that the drafting group for the request to PECCOE might also include this in their draft. **This was agreed.**

**It was agreed** to break the meeting to give the drafting group an opportunity to formulate a request for PECCOE. It was noted in this context that it is the rules set out by UNCLOS, and not what is submitted to NEAFC, that determine the outer limits of the coastal States' EEZs. It was also noted that there was no dispute over the positions of the vessel that had been involved in the incident that had been discussed. The vessel had sent position messages to the NEAFC Secretary and had been within the area that is shown in the NEAFC database to be the Regulatory Area. However, this did not necessarily reflect accurately the high seas pursuant to the relevant submissions of the coastal States to the UN under UNCLOS.

The EU stated that it considered it appropriate to call for a meeting of PECCOE as soon as possible to address these issues, due to the urgency of the matter at hand. He noted that as the Vice-Chair of PECCOE was present, it might even be possible to convene a meeting of PECCOE later during the day immediately following this Extraordinary Meeting. In any case a PECCOE meeting should be convened as soon as possible, and in good time before the Annual Meeting.

The other Contracting Parties stated that they would not be able to attend a PECCOE meeting on the same day as this Extraordinary Meeting, and that they did not share the EU's view regarding there being a great urgency.

It was decided to postpone further discussions on when PECCOE would meet until a consensus had been reached regarding the wording of what PECCOE would be requested to do.

On the basis of what had been formulated by the drafting group, **it was agreed** to send the following request to PECCOE:

Recalling the relevant provisions of UNCLOS, the Commission requests PECCOE to look at possible adjustments to Articles 11.5 and 18 of the Scheme of Control and Enforcement with a view to ensure, at any time, accurate coordinates in the NEAFC database and to consider the procedures of NEAFC inspections and, as appropriate, make proposals to the Commission.

The Secretary stated that in light of the discussions at this meeting, the Secretariat would change its approach to the ongoing effort to update the NEAFC database and maps that had been started following the submission of data to the Working Group on Blue Whiting. Rather than having this a comprehensive exercise where the database and maps were updated when sufficient data had been received from all the Contracting Parties, a more piecemeal approach would be used. The Secretariat would therefore start updating the NEAFC database and maps before receiving sufficient information from all Contracting Parties. The Secretariat will systematically inform Contracting Parties of such updates. In cases where the information had not been formally submitted by the Contracting Parties to the Secretary pursuant to Article 11.5 of the Scheme, letters would be written to inform the relevant Contracting Parties that specific coordinates would be used in updating the database pursuant to Article 11.5 unless they explicitly opposed this.

The Secretary noted that this would not resolve the issue of procedures for the future, which PECCOE was being asked to address, but it should improve the current situation and make it less likely that there would be more incidents like the one that had led to this meeting being convened.

The EU noted that this initiative by the Secretary should improve the situation. However, he considered that in the meantime such incidents could still occur and therefore this issue needed to be addressed urgently. He nevertheless had to acknowledge that there would not be an extraordinary meeting of PECCOE before the Annual Meeting, as there was not support for this from the other Contracting Parties.

The EU stressed that the Contracting Parties should cooperate to ensure that further incidents are avoided during the time it would take to improve the accuracy of the NEAFC database. He also asked that the Secretary report to the Annual Meeting on any progress in the exercise of updating the NEAFC database and maps. He furthermore asked that the Russian Federation send to NEAFC the notice to mariners where the revised limits of the Russian EEZ in the Barents Sea was notified, so he could ensure that it was forwarded to the appropriate authorities to avoid another incident.

The EU pointed out that while the operation of the Scheme was the main issue, there were other issues related to the borders of the Regulatory Area and EEZs. For example, there might be a need to revise the borders of the “existing bottom fishing area” in the Barents Sea if it turns out that parts of that area are actually outside the Regulatory Area.

## **5. Adoption of the report**

The report was adopted by correspondence on 24 October 2014.

**6. Closure of the meeting**

The President closed the meeting and wished all delegates a safe journey home.