



greenpeace international

Ottho Heldringstraat 5, 1066 AZ, Amsterdam, Netherlands

t +31 20 718 2000 f +31 20 514 8151

k.v.k. reg. 41200415 stichting greenpeace council

www.greenpeace.org

Name
Minister
Ministry
Adress

Date: 12th September 2005

Re: Greenpeace Documentation of Vessel Activities in NAFO Area

Dear Mr Regan,

As you are no doubt aware, the Greenpeace ship Esperanza recently spent three weeks documenting the bottom trawl fisheries in the international waters of the Northwest Atlantic, more particularly, the area managed by the Northwest Fisheries Management Organisation (NAFO). This letter describes what we found and why we believe these findings support the urgent need for an immediate United Nations moratorium on high seas bottom trawling.

In 2004, Regional Fisheries Management Organisations (RFMOs) like NAFO were given two years by the United Nations General Assembly (UNGA) to take urgent action to address the impact of destructive fishing practices like bottom trawling, on vulnerable marine ecosystems in waters beyond national jurisdiction. To date NAFO has done nothing to respond to this.

Prior to visiting the NAFO area, Greenpeace completed a Case Study on NAFO, which is enclosed. The information for this report was drawn from NAFO meeting reports, member country reports and from observer reports, which we accessed through freedom of information requests. NAFO is one of the oldest and most established RFMOs and is viewed by many as a model fisheries management organisation. The Case Study, however, tells a different story. It chronicles the struggle that NAFO has had in managing the fisheries under its care (10 stocks under moratoria). It discusses the lack of political will by its member states to hold to its rules and enforce real penalties when these are broken. It highlights the lack of transparency in decision making, and underscores the disregard that member states appear to have for NAFOs own scientific advice which results in critical management decisions being driven by short-term interests and politics rather than long-term sustainability and conservation.

Greenpeace holds real concerns that NAFO and other RFMOs are failing to implement ecosystem-based and precautionary fisheries management in accordance with the United Nations Fish Stocks Agreement, and without radical transformation are incapable of sustainably managing the fisheries under their care let alone providing protection for deep-sea biodiversity. As such, the Greenpeace ship tour to the NAFO area was focussed on obtaining first hand evidence, and shedding light on what is happening in this area of the global commons.

Whilst in the NAFO Area, Greenpeace observed 19 boats bottom trawling. These vessels were flagged to Japan, Spain, Estonia, Latvia, Canada, Lithuania, Iceland and Portugal. Greenpeace documented the fishing activities of most of these vessels by sitting alongside whilst they were trawling and hauling. Greenpeace was invited onboard five of these vessels (see attached a spreadsheet of the boats documented in the Area).

In our three weeks at sea we witnessed:

- Mismanagement in the shrimp and Greenland halibut fisheries;
- Evidence of destruction and lack of protection for deep-sea life;
- Dubious operators like the Estonian flagged **Lootus II** legally fishing in the NAFO Area.

Overall, our observations supported the findings in the Greenpeace NAFO Report: that NAFO is not meeting its Objectives, and that if NAFO is the best example of a Regional Fisheries Management Organisation, then deep-sea life is indeed in deep trouble.

During the Greenpeace NAFO tour, most of the time was spent in NAFO divisions 3L, M, N and O. The Greenpeace ship travelled along the edge of the nose and tail of the Grand Banks, up the Flemish Pass and over the top of the Flemish Cap, travelling backwards and forwards across the Flemish cap for a number of days. During this same period, the EU NAFO inspector was on board the “Jean Charcot” and the Canadian Fisheries Patrol vessel “Cygnus” were patrolling in the Area. We observed bottom trawling in the shrimp, Greenland halibut and redfish fisheries. Both the Greenland halibut and shrimp fishery developed on the heels of the collapse of other groundfish fisheries in these areas. Unfortunately these two fisheries appear to be heading in the same direction.

1. Mismanagement: Shrimp bottom trawling in 3M and the effort allocation management scheme

The shrimp trawler captains that we spoke with claim that the effort allocation scheme for 3M - which operates not by a TAC system but by allocating a number of days and vessels to member countries - has resulted in smaller shrimp and bigger boats to maximise the catch. What we saw bore this out. All but one of the boat's observed were setting two nets at the same time. In 2003, the catch went up to 62,000 MT, which was assumed by NAFO to be the result of Norwegian-flagged vessels setting 3 nets at a time. Each year the reported catch is more than that recommended by the scientists (45,000 MT).

Greenpeace observed 11 shrimp trawlers operating within a 30-mile radius of one another. Calculations based on the size of the nets being used and speed at which vessels were travelling, indicate that one shrimp trawler drags 12 square kilometres of seafloor in 24 hours.

The Icelandic shrimp trawler “**Petur Jonsson**” is a case in point. It is one of the vessels encountered during the Greenpeace NAFO tour. Iceland has used the NAFO objection procedure to “opt out” of the ‘management’ regime for the 3M area and to set its own quota. In addition, several of the Estonian and Lithuanian-flagged shrimp trawlers fishing in the NAFO area are operated or owned by Icelandic fishing interests.

Currently, as you well know, it is legal for any member of NAFO to opt out of quotas or conservation decisions simply by using the objection procedure; it is legal for members to set their own quota – as Iceland has done with shrimp in 3M – despite what the scientists recommend;¹ and it is legal for bottom trawling to take place in the same area where soft coral ecosystems are known to exist and where their destruction and its impact on the broader marine ecosystem is disregarded by NAFO's current rules. The existence of such an objection procedure that can override scientific advice and collective quota and management decisions makes a mockery of any claims to sustainable fisheries management by NAFO. If NAFO members are serious about reforming this RFMO then one of their first tasks should be to rid NAFO of the ‘opt out’ option.

¹ NAFO Scientific Advice by the Scientific Committee for quota for 3M 45,000 MT.

Greenland halibut (GLH)

As you are aware the Greenland halibut fishery in the NAFO Area is in imminent danger of collapse. The NAFO Scientific Council said this year that, “the exploitable biomass has been declining in recent years and is presently estimated to be at its lowest observed level”. A 15-year rebuilding plan was agreed in 2003. The NAFO Scientific Council estimates that there is a 15% chance that an increase in the biomass of this fishery will exceed 2003 levels by 2008 – in other words, an 85% chance that it will fail to meet 2003 levels. Despite this, the 2004 Greenland halibut catch reached 25 500 tons – an amount that exceeded the TAC set in the rebuilding plan by 27%. If this is an indication of NAFO member-state willingness to protect this fishery, then the future sustainability of fish stocks in this area, and indeed the health of the marine environment that currently falls within the NAFO Convention Area, is under serious threat.

Most of the Greenland halibut bottom trawlers observed by Greenpeace were Spanish-flagged vessels. They refused to discard their by-catch while Greenpeace was filming. The Spanish government itself has commented in the recent past on the high discard rates of this fishery. If these vessels had nothing to hide, then Greenpeace has to wonder why they interrupted their normal fishing activities while we were observing them.

On August 8th, the **Lootus II**, an Estonian-flagged bottom trawler, was observed trawling for 18 hours without hauling in its nets. This is highly irregular. The Greenland halibut fishery operates at a depth of between 700-1000 meters. Trawls generally last no more than 5-8 hours. Leaving the nets in the water for an extended period of time can severely damage the catch. The only logical conclusion that can be reached from observing the **Lootus II** leaving its nets in the water for such a long period of time, is that it had something to hide – whether this was mesh size, gear modifications, or the extent of by-catch, is unclear. Greenpeace understands that the untoward behaviour of this vessel, in this case, was noticed by the EU NAFO inspector. Greenpeace asks that NAFO members request the Secretariat to provide information on any inspections undertaken of this vessel and thoroughly investigate its activities. Greenpeace looks forward to receiving further information on whether an inspection was carried out and its outcomes, from the Secretariat and NAFO members.

2. Evidence of destruction and lack of protection

The western edge of the Flemish Cap has been identified by Canadian scientists as a ‘biodiversity hotspot’ because of the presence of soft corals and seapens in the area². This is the same area where Greenpeace documented intensive bottom trawling for shrimp and redfish.

Information about the vulnerability of corals in this area derives from observer reports and fishermen. Since NAFO has not adopted conservation measures to protect associated and dependent species and their habitats in this area, the damage that bottom trawling does is completely unregulated. This runs contrary to Articles 5 and 6 of the United Nations Fish Stocks Agreement. United Nations General Assembly Resolution 59/25 of 2004 calls on states, through competent Regional Fisheries Management Organisations, to take action to protect vulnerable deep-sea habitats and ecosystems. Greenpeace looks forward to NAFO members taking such comprehensive action at its annual meeting in September, and to the report of such action, in accordance with UNGA Resolution 59/25, paragraph 71.

In addition to this, in correspondence with the Oceanographic Institute of Spain and in comments by the Canadian Minister of Fisheries, Geoff Regan, it is clear that despite the fact that both these countries

² “Conservation of Deep-Sea Coral & Fish Habitat in the Newfoundland & Labrador Region” Evan Edinger Geography/Biology Vonda Wareham Environmental Science Program Memorial University

have fished this area for hundreds of years, they admit to knowing next to nothing about what other deep-sea life or important areas of biodiversity exist in the area, or what the impact of bottom trawling has been on the surrounding habitat. Spain and Canada are both Parties to the UN Fish Stocks Agreement in which they commit under Article 5(a) to applying the precautionary approach to fisheries management as laid out in Article 6 of the Agreement, and under Article 5(g), to protecting biodiversity in the marine environment. Article 6(2) states,

'States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.' [emphasis added]

It is thus incumbent on these countries, and other NAFO members, to adopt precautionary measures to protect the marine environment in the NAFO Area.

In documenting the activities of bottom trawlers in the NAFO Area, probably the most shocking sight was the fishing gear itself. The evidence that Greenpeace has gathered makes it very difficult to understand how high-level fisheries decision-makers can claim that bottom trawling is not destructive; that in fact no gear is inherently destructive but it is rather how it is used that is at issue. Greenpeace invites those decision-makers to view the evidence we have gathered – or to go out to the high seas on a bottom trawler to view this gear in action. The problem with bottom trawling is that *the proper use* of the gear results in the destruction of deep-sea biodiversity. Greenpeace has documented this in the NAFO Area, in the NEAFC regulatory area, and twice over the past year in the Tasman Sea between Australia and New Zealand.

In the NAFO Area, we witnessed up to 30 tonnes of gear including trawl doors, separators, rock-hoppers, chains and weighted nets 200 to 300 meters long, dropping onto the seafloor. Vessels were observed trawling for 24 hours with three hauls a day, often with two nets down at the same time. The Captain's of these vessels themselves attest to the fact that this is the way the gear is designed to be used. They complained of how many rocks the net scooped off the bottom and we documented starfish, sea sponges, juvenile redfish, eelpout, capelin – all life associated with the sea bottom, being hauled up in the nets.

3. Dubious operators allowed to fish and participate in decision making in NAFO.

The "**Lootus II**" and "**Madrus**" both bottom trawling in the NAFO area are Estonian flagged and jointly owned by a Spanish company (Grupo Oya Perez) that has been linked to the illegal fishing of Patagonian toothfish (*Dissostichus eleginoides*) in the Southern Ocean. Representatives from this company have in the past been on the EU delegation to NAFO meetings to participate in management and conservation decisions³. Other vessels from this company are on blacklists of NAFO member countries. The **Lootus II** itself has had 7 citations in the last 4 years for breaking NAFO rules including fishing for species under moratoria and exceeding by-catch regulations. The latest citation was December 2004.

The Estonian government in recent correspondence has confirmed that the penalty imposed on the **Lootus II** for breaking NAFO rules has been the maximum possible penalty - of approximately 400 Euros. Given the value of the catches hauled in the NAFO Area, it is clear that such penalties can hardly be called deterrents. Increasing cash penalties and blacklisting of vessels, captain's and beneficial owners must be considered if NAFO is going to deal effectively with infringements.

4. Monitoring, Control and Surveillance

³ McDiarmid, B, Gotje M, Sack K "Greenpeace NAFO Case Study, The Northwest Atlantic Fisheries Organisation: A case study in how RFMOs regularly fail to manage our oceans."

While at sea, Greenpeace overheard one radio conversation between the EU NAFO inspector and a trawler that we had ourselves just finished filming. When the inspector indicated his interest in visiting the vessel, it responded saying they had a winch problem and that it would not be a good time for a visit. There was, however, no obvious problem with the winch whilst Greenpeace was filming.

There is no doubt that there is a lot of surveillance in the NAFO area. The question must therefore be asked as to whether such surveillance is effective, and if so, why so many of NAFO's fisheries are in trouble. From our work in the Area, NAFO inspectors appear to spend most of their time policing their own members. Vessels deter inspectors from coming aboard, and as demonstrated above, when such vessels are caught breaking the rules, the penalties are almost negligible, and certainly do not amount to a significant deterrent to illegal activity.

In conclusion

The deep ocean is the largest pool of undiscovered life on the planet. The NAFO Regulatory Area is part of the global commons that is the high seas. It does not belong to the NAFO member states but to all of humankind, and the right to fish comes with the responsibility to manage, use and conserve the oceans for the benefit of all humankind now and in the future.

As it currently stands, NAFO's record on fisheries management and the attempts by its member states to opt out of, weaken or simply ignore management measures, inspires no confidence at all that the undiscovered life in our deep oceans will be safe in your hands. Your own scientists regularly express concerns at the state of the fisheries under your care, yet their voices seem to go unheard in the race to catch the last fish. The Greenpeace NAFO Report and at-sea work indicate that as it currently stands, NAFO appears largely incapable legally and politically, without major restructuring, to manage its fisheries sustainably, let alone take on the important task of protecting deep-sea life.

Despite what a few fisheries officials may think, consensus exists among the international scientific community, that high seas bottom trawl fishing is inherently destructive and currently the biggest threat to deep-sea biodiversity (4). Since as a result of the absence of adequate scientific information, scientists do not yet know where all the vulnerable areas are in the deep sea, the sensible application of the precautionary approach to fisheries management would be to temporarily halt the human activities that could be destroying such areas until such time as there is clear evidence showing where they are, and measures are in place to protect them.

Since more than 50% of all high seas bottom trawling occurs in the NAFO Area, NAFO member states should take the lead in adopting such a precautionary approach and establish a moratorium on bottom trawling in the NAFO Area. Such a moratorium would be in place until the Scientific Council has had the time to identify and assess the biodiversity of the Area and recommend which sectors should be closed to this fishing practice; and, until members have overhauled their fisheries management approach and adopted ecosystem-based measures which take account of impacts on associated and dependent species in setting TACs for various fish stocks. In order for such measures to succeed, NAFO needs to overhaul its decision making process so that it is driven by long-term conservation principles and not short-term, interest based politics. The objection procedure makes a mockery of any claims of scientific based management and must be abolished.

NAFO also lacks transparency. There is no public registry of ships licensed to fish in NAFO – why is this information secret? More than the NAFO members are interested and invested in the future health of the oceans in this area and all of us have a right to know how our global commons are being used.



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Openness in decision-making and information sharing can only help to strengthen NAFO. In addition, - NAFO needs to strengthen its monitoring, control and surveillance mechanisms so as to combat IUU fishing in the Area.

Finally, member states need to make offenders pay for breaking the rules. A fine of 400 euros for serious NAFO infringements is hardly a deterrent. It is more like an invitation to ignore the rules. Stiff fines, and blacklisting of flags, beneficial owners, captains and vessels must be imposed, and RFMOs and states from across the oceans must work together to co-ordinate and share information through a centralised high seas vessel register.

NAFO members should also join with Greenpeace, the over 40 non-governmental organisations worldwide that make up the Deep Sea Conservation Coalition (DSCC), the over 1,000 marine scientists and a growing number of countries that have been calling for an immediate UN moratorium on high seas bottom trawling. Such a temporary moratorium would allow scientists the time to assess and identify which areas of the deep sea are vulnerable and need protection from bottom trawling, and motivate policy makers to develop appropriate precautionary and ecosystem-based management measures to ensure that the wealth of biodiversity contained in the deep-sea can be sustainably managed and conserved for future generations.

The Canadian and Norwegian Ministers of Fisheries have announced that they want reform within NAFO and there is no doubt that this is required. But reform takes time and what is needed now is responsible action. To ensure that there is something left to manage and protect by the time you have finished agreeing on the necessary reforms, the only precautionary and responsible way to act is to establish a temporary moratorium on high seas bottom trawling.

Yours Faithfully,

Esperanza Campaign Team,
Bunny McDiarmid, Greenpeace International.
Iris Menn, Greenpeace Germany.
Mariajo Caballero, Greenpeace Spain.