Presentation:

“Agreements on Management and Allocations of Straddling Stocks in the North East Atlantic: Three Case Studies: Norwegian Spring Spawning (Atlanto-scandian) Herring, Blue Whiting (ICES Subareas I–IX, XII and XIV) and Mackerel in the North-East Atlantic”

By Kjartan Hoydal, consultant and director, Fish & Film Ltd., Faroe Islands.

I am privileged that Jóhan Sigurðjónsson, Jan Arge and Stefán Ásmundsson have covered some issues relevant to my presentation i.e. the biological background, elements of decisions on allocations and the role of regional cooperation.

In the presentation the history of reaching agreements on the management of the three large pelagic stocks in the North East Atlantic–Norwegian spring spawning (Atlanto-scandian) herring, blue whiting (ICES Subareas I–IX, XII and XIV) and mackerel is presented and also the history of the breakdown of these agreements is discussed. It becomes clear that the each agreement has its specifics, but there are also similarities, from which lessons can be learned. Political changes, changes in economy and ecology all have contributed to the breakdown of the coastal state agreements in recent years.

I have in different roles been involved in these negotiations since the mid-1970s, so much of the descriptions will be based on personal experience.

In the last about 20 years the Coastal states have been able to reach agreement in the following years:
### Table 1.
Coastal State Agreements 1996 to 2014

#### NE Atlantic pelagic complex

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</thead>
<tbody>
<tr>
<td>Norwegian Spring Spawning (Atlanto-scandian) Herring</td>
<td>No agreement</td>
<td>Agreement</td>
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<td>Mackerel in the North-East Atlantic</td>
<td>No agreement</td>
<td>Agreement</td>
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<tr>
<td>Blue Whiting (ICES Subareas I–IX, XII and XIV)</td>
<td>No agreement</td>
<td>Agreement</td>
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### Table 2.
Agreed coastal state allocations in recent years - NE Atlantic pelagic complex

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<tr>
<th>Stock/Coastal -Fishing State</th>
<th>The EU</th>
<th>Faroe Islands</th>
<th>Iceland</th>
<th>Norway</th>
<th>Russian Fed.</th>
<th>Greenland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norwegian Spring Spawning (Atlanto-scandian) Herring</td>
<td>7%</td>
<td>5%</td>
<td>15%</td>
<td>61%</td>
<td>12%</td>
<td>0%</td>
</tr>
<tr>
<td>Mackerel in the North-East Atlantic</td>
<td>60%</td>
<td>5%</td>
<td>0%</td>
<td>35%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Blue Whiting (ICES Subareas I–IX, XII and XIV)</td>
<td>31%</td>
<td>26%</td>
<td>18%</td>
<td>26%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Fishing States ▄▄▄▄▄▄
Coastal States ▄▄▄▄▄▄
Is this a good track record? Yes, compared to other regions of the oceans of the world. Allocations are still outstanding in a lot of places.

The jurisdictions
Please, note that although Greenland and the Faroe Islands are not sovereign states, responsibility for the marine resources and environment has been devolved to the Faroe Islands and Greenland governments and parliaments, Løgting and Landsting). Greenland and the Faroe Islands are coastal states in their own right. In NEAFC the situation is different Denmark (in respect of the Faroe Islands and Greenland) is an entity that requires that the Faroe Islands and Greenland agree on measures in NEAFC. Metropolitan Denmark fisheries are bound by EU decisions.

Areas beyond national jurisdiction in the NE Atlantic – NEAFC regulatory area
The set up in the NE Atlantic

1. There is extensive cooperation in fisheries matters in the NE Atlantic, based on bilateral agreements for exchanging fishing possibilities between fisheries jurisdictions. All parties have for the last 100 years received independent scientific advice from the same organization, the International Council for the Exploration of the Sea, ICES. Coastal states in the NE Atlantic discuss biodiversity issues and impact of fisheries both in NEAFC and at meetings in convention based Regional Seas Organisation, OSPAR.

2. Coastal State groups have on a pragmatic basis, cooperated on allocation schemes for straddling stocks with reference to UNCLOS and UNFSA and other criteria as presented by Jan Arge. There is no international agreement on the weight of these factors in allocations, but there is agreement on management plans for all stocks, based on the independent advice from ICES.

3. 14th North Atlantic Fisheries Minister Meeting conference in 2009 observed that, fundamentally, new allocation criteria are not likely to be developed. Ideally, one of the ways to improve the current allocation schemes could be through the development of approaches, providing not only qualitative, but also definition of the relative weight to be applied to the key criteria.
4. The comparison with the development of oil and gas industry is striking. The history of the developments of these industries is quite different, but in this day and age the basis for running competitive industries is very similar. International law and instruments give the basis for establishing frameworks under the rule of law, giving coastal states and fishing states a fair share of the living marine resources straddling EEZs and ABNJ. The pelagic fisheries I am dealing with here are technologically advanced and very capital extensive and their profit margins are large at present.

The problem is not in how to exploit these riches, that is very well set out in international law and instruments like the voluntary FAO Code of Conduct and UNFSA 1995. The problem is in the fair sharing, in agreeing on allocations, where no firm principles have been established. This calls for mature political authorities that are willing to forego a short term advantage for their own jurisdiction for the long term advantage of all parties with an interest in the straddling stock.

**Biological background**

![Image](42x203 to 162x366)

The distribution of the three stocks forming the pelagic complex in the NE Atlantic.

**Mackerel**

The main fishery for mackerel before the expansion of the EEZs in 1977 was in the North Sea. ICES produced in 1976 two Cooperative Research Reports about the “Biology and State of Exploitation of Shared Stocks, No 74 on stocks in the North Sea” and “No 86” on stocks elsewhere. The North Sea Report deals with Mackerel both in the North Sea and the Western and Southern component.

The North Sea stock was in 1976 in sharp decline and eventually collapsed. However, the zonal attachment of the mackerel in the North Sea was used as the basis for agreement between the EU and Norway on the sharing of mackerel. The Western component was fully contained in EU and Spanish waters. Norway and
the EU dealt with other parties under bilateral agreements from 1977 to 1999. In 1999 NEAFC agreed on an allocation of mackerel and the EU Norway and the Faroe Islands became the coastal states with respect to mackerel.

ICES 1976 Zonal split between Norway and the EU in the North Sea

The distribution of the fishery for mackerel 1945-1999.
The fisheries have in recent years changed completely with high abundance of mackerel in Icelandic and Faroese waters and the Norwegian Sea. This is the basis for major fisheries in the EEZs these two countries which have developed in recent years. Faroe Islands opted out of the mackerel agreement for the year 2010 and onwards and Iceland never been a part of the agreement. Because of this Norway and the EU suspended the bilateral fisheries agreements with the Faroe Islands from 2010 and onwards.

Recently the EU, the Faroe Islands and Norway have agreed on five years allocation arrangement for mackerel. The coastal state Iceland is not party to that agreement and the fishing countries Russia and Greenland have not accepted the arrangement.

It should be noted that the allocations of mackerel have never been based on analyses of zonal attachment etc. as has been the case with herring and blue whiting.

**Norwegian Spring Spawning (Atlanto Scandian) herring**

The mighty Atlanto-Scandian herring collapsed in 1969/70.

The allocation of the Atlanto-Scandian herring became a matter of concern to the coastal states, that is the countries in whose EEZs the stock was found before the collapse in the 60s: Iceland, the Faroe Islands, Norway and the Russian Federation (Soviet Union).

Discussions started when the stock in the early nineties started to migrate out of Norwegian and Russian waters, following the recruitment of the large 1983 year class and good recruitment in the early 1990s. It was then agreed between the Coastal States in April 1995 to establish a Scientific Working Group on the Zonal Attachment of the Atlanto-Scandian herring.

The Scientific Working Group on the Zonal Attachment of the Atlanto-Scandian herring met in Reykjavík 13-19 September 1995. The result they came up with was

<table>
<thead>
<tr>
<th>Zone</th>
<th>%</th>
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<tr>
<td>Norway (+ Jan Mayen)</td>
<td>44.5</td>
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<tr>
<td>Russian Federation</td>
<td>17.2</td>
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<tr>
<td>Iceland</td>
<td>14.7</td>
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<tr>
<td>Faroe Islands</td>
<td>6.5</td>
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<tr>
<td>High Seas Barents Sea and Svalbard</td>
<td>7.7</td>
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<tr>
<td>High Seas Norwegian Sea</td>
<td>8.3</td>
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<tr>
<td>EU</td>
<td>1.0</td>
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This was the basis for an agreement on TAC and allocations between the four coastal states for the year 1996 signed 6 May 1996.

Already in May 1995 the Danish Ministry of Agriculture wrote a letter to the Danish Foreign Ministry. In the letter it was pointed out that the Foreign Ministry had to consider the interests of all parts of the Danish Kingdom with respect to the Atlanto-Scandian herring, not only the interests of the Faroe Islands. The Danish Kingdom had also to support the demands from Danish fishing fleet.

The Danish Foreign Ministry put much pressure on the Government of the Faroe Islands and demanded that the EU was invited to the negotiations between the coastal states. The EU, eventually, refused to in any manner to be bound by the comprehensive management arrangement concluded by the coastal states.

The EU set its own quota, 150,000 tonnes, about 14 % of the TAC. (The EU actually landed 200,000 tonnes in 1996) This led to new negotiations, which included the EU.

An agreement was reached for 1997, which gave the EU the status of coastal state and a substantial allocation, 8.4 %. Denmark has by far the largest share of the EU allocation, 34.3%.

In 2002 Norway opted out of the agreement. A new agreement was reached in 2007, giving Norway some compensation. In 2012 The Faroe Islands opted out and set its own quota. This led to sanctions from EU against the Faroe Islands. Faroes responded by going to WTO and ITLOS. Quite recently the Faroe Iceland has decided to set a quota for herring for 2014 at a lower level than in 2013. The EU has in response to this initiated a process to revoke the sanctions against the Faroe Islands.

The coastal states have agreed to update the analysis of zonal attachment from 1995. A report is expected in September this year.

**Blue Whiting**

Blue whiting was unregulated for many years. NEAFC discussed the problem in the 1980s and 1990s but there was no interest in discussing allocations until the late 1990s.

A NEAFC WG analysed the zonal attachment in 1999. This report was discussed in the following years. In 2006 an agreement on allocations was reached for the year 2007 and onwards.
A NEAFC Working Group has since 2009 attempted to update the 1999 analysis of zonal attachment. It has reported this year.

**Conclusion:** There will be a new scientific basis for negotiating new allocations for herring and blue whiting later this year. For mackerel 3 coastal states have agreed on an arrangement for the next 5 years, but one coastal state, Iceland, has not accepted that agreement.