



BETTER HIGH SEAS MONITORING, CONTROL AND SURVEILLANCE – AN IMPROVED NETWORK

Meeting of the High Seas Task Force
Paris, 9 March 2005

We propose the transformation of the existing voluntary MCS Network into an international high seas MCS unit with dedicated resources, analytical capacity and the ability to provide MCS training and technical assistance to fisheries enforcement agencies in developing countries. We propose that HSTF members develop a coalition of like-minded countries and organizations that could potentially share the costs and benefits from an enhanced MCS Network.

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A. INTRODUCTION

1. If fisheries laws cannot be enforced then they are worthless. Enforcement becomes difficult, if not impossible, without effective surveillance of what is going on and where. In the jargon of international law “States should undertake comprehensive and effective monitoring, control and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination ...”¹

2. Governments invest huge sums of money in physical surveillance of EEZs using armed patrol boats, aircraft, satellite monitoring systems and the like. Australia, for example, will spend around A\$90 million over the next two years to conduct regular armed patrols around the Heard and McDonald Islands EEZs in the Southern Ocean.² These physical efforts are supported by investigative networks on shore in which fisheries officers work with police, customs officers and prosecutors to collect and analyze information on potential illegal activities. Within national jurisdictions, these arrangements are often highly sophisticated and highly effective. The problem is that fishing is increasingly a cross-border activity. IUU fishing on the high seas is in fact a form of transnational organised crime that has many similarities with other transnational crimes such as piracy, arms trafficking, illegal migration, smuggling and narcotics trafficking. In the Southern Ocean, for example, organised syndicates play cat and mouse with authorities. The movements of naval patrol boats are monitored by spies and reported to the illegal fleet. Ownership structures involving multiple front companies are used to keep details from boat crews as well as authorities. Operational instructions for the illegal fleet are passed down through front companies with vessel masters often not knowing who their real employers are.³ For governments to effectively deal with IUU fishing on the high seas they need to be able to monitor what is going on and where both at sea and on land. They also need to be able to act decisively once they know of suspected illegal activity. This requires national authorities to have immediate access to accurate and timely information on potential or suspected IUU activity and to have the means to share that information with other national authorities.

3. If we look at how international cooperation has developed in response to other forms of cross-border crime, we can see a clear trend towards increasingly sophisticated arrangements for cooperation in intelligence gathering, evidence sharing, law enforcement and mutual assistance in response to threats such as trafficking in illicit narcotics, trafficking in persons, arms smuggling, tax evasion, serious fraud and cross-border motor vehicle theft.⁴ The need for a forum for enforcement agencies to meet, exchange information and adopt universal standards and practices led to the establishment of bodies such as Interpol and the World Customs Organization (WCO). Interpol links police forces around the globe and provides assistance in criminal investigation and analysis. The WCO seeks to combat customs and related transnational crimes. It does this by promoting and facilitating communication and cooperation among members and with other international organizations. Both Interpol and the WCO maintain databases of criminal information (for example counterfeit currencies) and collect and disseminate information to contact points in member countries. Their purpose is to move information across borders. They are also able to analyze data in order to provide a global view on specific crimes, patterns of criminal activity and trends. Neither Interpol nor the WCO have the right to carry out investigations or to conduct enforcement and they do not participate in operational activities. Many other newer institutions, for example, the European Drugs Unit, established in 1994, do have such functions, usually based on treaty.

4. In the world of international fisheries, the need for better cross-border exchange of information and cooperation between national agencies has been recognized for some time. In 2001, a small group of national enforcement agencies established an informal international MCS Network to try to improve the efficiency and effectiveness of MCS activities through enhanced cooperation, coordination, information collection and exchange among national bodies.

B. THE INTERNATIONAL MCS NETWORK

5. The International MCS Network (International network for the cooperation and coordination of fisheries-related monitoring, control and surveillance activities) is an arrangement of national organizations in charge of fisheries-related MCS activities, which have been authorized by their countries to coordinate and cooperate in order to prevent, deter and eliminate IUU fishing. The Network was created in 2001 to fill a gap identified by fisheries enforcement personnel. It has an informal, operational, focus. It is not intended to replace formal government to government arrangements. Like Interpol and the WCO, it provides a forum for professionals to meet and discuss current MCS issues. Training is also an important part of the Network's activities and at each meeting there are dedicated training presentations. Most importantly the MCS Network maintains a database of contact points for each member country as well as information on domestic management arrangements and legislation. These are accessed through a secure website.⁵

6. The Network operates on the basis of simple technical terms of reference. Since its establishment, the administrative costs have been borne by the network administrator, which is presently the National Oceanic and Atmospheric Administration (NOAA) in the United States. The website is hosted and maintained on a voluntary basis by NOAA. The United States, which has played a significant role in the success of the Network to date, also provides the chair of the Network's advisory committee,⁶ while Sernapesca (Ministerio de Economía, Chile) provides the services of an Executive Secretary.⁷

7. From small beginnings, the Network has grown to include agencies from some 40 countries. Membership is voluntary and there is no membership fee to join the Network.

Table 1: Members of the MSC Network

Member Countries			
Australia	Iran	New Zealand	Spain
Bahamas	Japan	Norway	Seychelles
Belize	Kenya	Sultanate of Oman	Tanzania
Canada	Kiribati	Panama	Kingdom of Tonga
Chile	Mauritania	Peru	United Arab Emirates
Ecuador	Mexico	Solomon Islands	United States of America
Federated States of Micronesia	Mozambique	South Africa (provisional)	Vietnam
	Netherlands Antilles		
Intergovernmental organizations ⁸			
European Commission	South Pacific Forum Fisheries Agency ⁹	Southern African Development Community ¹⁰	

8. Some of the intended benefits from the Network include intelligence sharing, access to databases of relevant information, access to experts in a range of disciplines, access to information on fishing vessels, rapid personal contact with officers in other countries during investigations. The apprehensions of the IUU vessels *Viarsa 1* and *South Tomi* were assisted by effective linkages developed through the MCS Network between enforcement officers in Australia, South Africa and the United Kingdom.

9. Despite some notable successes such as these, the MCS Network remains a voluntary, informal body that simply does not have adequate resources to carry out all the tasks expected of it.

Discussions with the current chair, Network members and website users suggest strongly that the Network has reached the limits of its effectiveness under current arrangements. It has no independent resources. Since all its officers also have full-time jobs they are unable to adequately service the demands of a rapidly growing organization. This creates a vicious circle; as up to date relevant information is not posted on the website, national agencies use it less and become less diligent in submitting new information. In short, the model is sound, but resources are lacking.

C. AN ENHANCED MCS NETWORK

10. One of the key economic incentives that allows IUU fishing activity to thrive is the low risk of being caught. If governments and RFMOs work together to establish which vessels are fishing where, what those vessels are catching, who the beneficial owners of those vessels are and to track catches, the chances of catching and prosecuting IUU operators will be substantially increased.

11. We **propose** that HSTF members seize the initiative to transform the existing MCS Network into an international unit with dedicated resources, its own analytical capacity and the ability to provide training and technical support to fisheries enforcement agencies in developing countries.

12. There are clear links between the present proposal and several of the other measures being proposed to the HSTF. A global information system on high seas fishing vessels, strengthened in-port measures and enhanced catch monitoring, product tracking, labelling and other market place related measures would all generate information that is useful for enforcement purposes. Ideally, the information generated by these measures would be collated and analyzed by the MCS unit. Because of the synergies involved, a dedicated high seas MCS unit may well be the logical place to host the global information system on high seas fishing vessels.

13. The key to dramatically enhancing the effectiveness of the MCS Network is to give it a measure of independent functioning and more sophisticated analytical capability. Dedicated data analysts would be able to draw conclusions from seemingly unrelated streams of information to provide intelligence to Network members and to identify areas for further work. The provision of training and technical support to enforcement authorities in developing countries would dramatically improve the reach and scope of the proposed Network.

14. To enable the MCS Network to fulfil its objectives it will require dedicated resources including full-time staff who could either be hosted in an existing enforcement agency of a member country or established as a separate secretariat. As a minimum, three full-time staff members would be required to service the needs of such a Network. These would include a Network coordinator, a database administrator to maintain the website and associated databases, and a data analyst. Training functions could either be outsourced or coordinated by a specialized staff position. Depending on the level of resources that potential member countries are prepared to commit to the Network, additional complex analysis and predictions of high seas activity could be conducted. The principle functions of the proposed MCS Network would include the following:

- Maintenance of a secure website as a central communications hub for rapid exchange of data and information;
- Circulation of up to date information on sightings and activities of IUU vessels;
- Maintenance of the global information system on high seas fishing vessels;
- Monitoring of information on vessel and product movements;
- Seasonal predictions of vessel concentrations;

- Maintenance of libraries and databases on: prosecutions, domestic legislation, crew lists, vessel masters and owners, media reports and general MCS materials;
- Collection and analysis of non-fisheries data drawn from a variety of public and other sources;
- Convening regular meetings to exchange views on current MCS problems and develop international standards, protocols and best practices;
- Provision of training and technical support, especially to personnel from developing countries.

15. We would estimate the costs involved in significantly enhancing the existing MCS Network in this manner to be relatively small; in the order of US\$1 million per year. This would pay for a full-time technical secretariat, accommodation, the development of a secure database and communications infrastructure, website maintenance and a basic outreach and training programme. In comparison, FAO's fisheries budget for 2004-2005 was US\$39 million. The annual budgets for medium-sized RFMOs, such as IOTC and WCPFC are each approximately US\$1 million. Costs of this magnitude are minimal compared to the cost of physical surveillance assets or radar-based systems.

16. We suggest that the benefits of a fully operational MCS Network far outweigh the costs involved. As more like-minded countries are encouraged to actively participate in and contribute to the enhanced Network, the cost to individual countries would be further diminished. At the same time, the capacity of the Network to provide more sophisticated intelligence analysis and support to national agencies could be significantly increased.

D. PROPOSALS FOR ACTION

17. The HSTF is invited to take the following action:

(a) Endorse the proposal to turn the existing MCS Network into an international MCS unit with dedicated resources, its own analytical capacity and the ability to provide training and technical support to fisheries enforcement agencies in developing countries.

(b) Agree that, to advance the proposal further, the HSTF Secretariat should conduct a further analysis of structural and institutional options and prepare indicative costings.

(c) Begin to build a coalition of like-minded countries and organizations that could potentially share the costs and benefits of an enhanced MCS Network.

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¹ FAO IPOA-IUU Fishing, paragraph 24. Other binding international agreements, for example UNFSA, article 20, require States Parties to cooperate to ensure compliance with, and enforcement of, regional conservation and management measures.

² National Nine News Press Release, 21 November 2004, "Prime Minister John Howard announced a two-year armed patrol program in December 2003, and funding of \$47.8 million in 2004-05 and \$41.4 million in 2005-06 was confirmed in the federal Budget earlier this year."

³ See, for example, <http://www.colto.org/Bulletin.htm>.

⁴ See Jonathan M. Winer, *Cops across Borders: The Evolution of Transatlantic Law Enforcement and Judicial Cooperation*, for a comprehensive discussion of the evolution of American and European arrangements for joint law enforcement.

http://www.cfr.org/pub7389/presentation/cops_across_borders_the_evolution_of_transatlantic_law_enforcement_and_judicial_cooperation.php.

⁵ <http://www.imcsnet.org/>.

⁶ Ms Michele Kuruc, Assistant General Counsel for Enforcement and Litigation, NOAA.

⁷ Mr Alejandro Covarrubias.

⁸ In each of these cases the entity is the Network member. In some cases, some of their member states have joined individually as well.

⁹ Australia, Cook Islands, Federated States of Micronesia, Fiji, Marshall Islands, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.

¹⁰ Angola, Namibia, South Africa, Tanzania, Mozambique, Democratic Republic of the Congo, Mauritius.