

## SUMMARY OF THE SIXTH INFORMAL CONSULTATIONS OF STATES PARTIES TO THE UNFSA: 23-24 APRIL 2007

The sixth round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA or the Agreement) convened from 23-24 April 2007, at UN headquarters in New York. The sixth informal consultations were convened under General Assembly resolution 61/105 of 8 December 2006, and considered: the national, regional, subregional and global implementation of the Agreement; progress in the implementation of the outcomes of the Review Conference of the Agreement convened by the Secretary-General pursuant to Article 36 of the Agreement; and preparatory steps for the resumption of the Review Conference.

A side event on recommended criteria for reviewing the performance of Regional Fisheries Management Organizations (RFMOs) was also convened in the margins of the informal consultations. The side event made progress towards a drafting a list of suggested criteria for RFMO review, which will be forwarded to tuna RFMOs for further consideration and to all other RFMOs for informational purposes.

### A BRIEF HISTORY OF THE UNFSA

The UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, called for by Agenda 21, the programme of action adopted at the 1992 UN Conference on Environment and Development, was convened by the UN General Assembly to address problems related to the harvesting of these stocks on the high seas. Six substantive sessions were held from 1993 to 1995, resulting in the adoption of the UNFSA in August 1995. The UNFSA entered into force on 11 December 2001, and currently has 66 parties. The UNFSA aims to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks, and includes general principles for their conservation and management and provisions on, *inter alia*: application of the precautionary approach; compatibility of conservation and management measures; cooperation for conservation and management; RFMOs; collection and provision

of information and cooperation in scientific research; non-members of RFMOs; duties of, and compliance and enforcement by, flag states; international, subregional and regional cooperation in enforcement; procedures for boarding and inspection; measures taken by port states; special requirements and forms of cooperation with developing countries; and dispute settlement. The Agreement establishes a set of rights and obligations for states to conserve and manage the two types of fish stocks as well as associated and dependent species, and to protect the marine environment.

An associated Assistance Fund under Part VII of the Agreement (the Assistance Fund) was established by the UN General Assembly in 2003 to assist developing states parties in UNFSA implementation. Following General Assembly resolution 56/13, informal consultations of states parties (ICSP) were held at UN headquarters in New York every year since 2002 to consider the regional, subregional and global implementation of the Agreement and prepare for the 2006 Review Conference.

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**ICSP-1:** At its first meeting (30-31 July 2002), the ICSP discussed the review of UNFSA implementation by parties and through RFMOs, implementation of Part VII (Requirements of Developing States), including the establishment of a programme of assistance for developing countries, changes in requested information and status of the report for parties and non-parties, and the future of the General Assembly resolutions on fisheries-related issues, among other things. ICSP-1 agreed on a series of recommendations on the implementation of Part VII.

**ICSP-2:** At its second meeting (23-25 July 2003), the ICSP focused on the impact of UNFSA implementation on related or proposed instruments throughout the UN system, establishment of the Assistance Fund under Part VII and preparations of its draft terms of reference, facilitation of the involvement of international financial institutions in UNFSA implementation, and consideration of Part II (Conservation and Management of Fish Stocks).

**ICSP-3:** At its third meeting (8-9 July 2004), the ICSP discussed new developments in UNFSA implementation by parties, including: the strengthening of flag state duties; implementation at the regional level, including the establishment of new RFMOs; updates on states' initiatives at the global level; review of implementation of Part VII provisions, including contributions to the Assistance Fund; and preparatory work for the Review Conference.

**ICSP-4:** At its fourth meeting (31 May-3 June 2005), the ICSP focused on the institutional, procedural and substantive issues related to the preparation for the Review Conference, also based on the Chair's background papers on possible criteria for assessing the UNFSA's effectiveness and possible initiatives for strengthening the substance and implementation of the Agreement's provisions. Participants discussed a timeline and programme of work for the preparation of the Review Conference, a draft agenda for the preparatory meeting and a set of recommendations to the General Assembly related to the preparatory work and the convening of the Review Conference and its preparatory meeting.

**ICSP-5:** At its fifth meeting (20-24 March 2006), the ICSP served as a preparatory meeting for the Review Conference. In a preliminary exchange of views on the UN Secretary-General's report (A/CONF.210/2006/1), participants stressed the need for: broader ratification of and accession to the Agreement, in particular by key fishing states; priority action on the degradation of vulnerable marine ecosystems; the creation of new RFMOs; and the strengthening of cooperation and coordination between and among RFMOs. Participants discussed recommendations for consideration by the Review Conference, in particular on draft rules of procedure on voting, composition of the bureau and of the drafting committee, modalities for the participation of non-parties in the Conference and the extent to which they would be able to participate in the decision-making process, the Conference outputs, and possible future actions such as future review conferences and formalized meetings of parties. ICSP-5 outcomes included a provisional agenda and organization of work for the Review Conference, provisional rules of procedure, and elements for assessing the adequacy and effectiveness of the Agreement.

**UNFSA REVIEW CONFERENCE:** The Review Conference of the Agreement was held from 22-26 May 2006, at UN headquarters in New York. Called for by UNFSA Article 36 and General Assembly resolution 59/25 of 17 November 2004, the Review Conference had the mandate, four years following the entry into force of the Agreement, to assess the adequacy of the Agreement's provisions for securing the conservation and management of straddling fish stocks and highly migratory fish stocks and, if necessary, to propose means of strengthening the substance and methods of implementation of its provisions to better address any continuing problems in the conservation and management of the two types of stocks.

The Review Conference considered: the extent to which the UNFSA provisions have been incorporated into national laws and regulations, as well as into the charters and/or measures of RFMOs; the extent to which these provisions are actually being implemented in practice; and the extent to which states and RFMOs are taking action to remedy instances of failure to apply these provisions in practice.

The final report included recommendations for, *inter alia*: a commitment to integrate ecosystem considerations in fisheries management; the urgent reduction of the world's fishing capacity to levels commensurate with the sustainability of fish stocks; urgent strengthening of RFMO mandates to implement modern approaches to fisheries; urgent RFMO performance reviews; a commitment to develop a legally binding instrument on minimum standards for port state measures and a comprehensive global register of fishing vessels; expanded assistance to developing countries; and continuation of a dialogue to address concerns raised by non-parties.

## REPORT OF THE CONSULTATIONS

Václav Mikulka, Director of the UN Division for Ocean Affairs and the Law of the Sea (UNDOALOS), opened the meeting. He noted that paragraph 25 of UN General Assembly resolution 61/105 on Sustainable Fisheries tasks the meeting with "considering the national, regional, subregional and global implementation of the Agreement, as well as considering initial preparatory steps for the resumption of the Review Conference, and making any appropriate recommendations to the General Assembly." Participants elected Ambassador David Balton (US) as Chair of the meeting.

In his opening statement, Balton highlighted past achievements of the informal consultations, in particular the preparations for the Review Conference of the Agreement in May 2006, which undertook an assessment of implementation of the Agreement and produced a set of recommendations for strengthening its implementation. He reported that the Agreement now has 66 parties, and congratulated the nine new parties, namely Slovenia, Estonia, Japan, Trinidad and Tobago, Niue, Bulgaria, Latvia, Lithuania and the Czech Republic.

Chair Balton also highlighted other recent fisheries management developments, including: the signing of the Southwest Indian Ocean Fisheries Agreement (SIOFA) in July 2006; the Joint Meeting of Tuna RFMOs in Kobe, Japan, in January 2007; and the 27th meeting of the FAO Committee on Fisheries (COFI) in Rome, Italy, in March 2007.

Chair Balton introduced the draft agenda, which was adopted without amendment. On the organization of work, he noted that the Review Conference's recommendations included a call for RFMO performance reviews, and reported that a number of discussions on developing common criteria and methodologies for such reviews had taken place since the Review Conference, in particular at the Kobe meeting of tuna RFMOs, at COFI-27, and within the North East Atlantic Fisheries Commission (NEAFC) and the International Commission for the Conservation of Atlantic Tunas (ICCAT). He explained that in his capacity as a facilitator from the Kobe meeting, he had compiled comments and thoughts on the issue into a draft list of possible criteria that could be useful to RFMOs, and suggested that this meeting find a way to consider the issue.

Japan and Australia agreed with the concept of undertaking further informal work towards developing common criteria for the five tuna RFMOs. Iceland preferred that the discussion of RFMO performance review criteria not take place within the informal consultations, suggesting instead that a side event be convened to address the issue. The EC and Norway agreed that the sixth informal consultations should not develop technical criteria for RFMO review, but that discussions could take place in the margins. Following a proposal from Chair Balton, the US agreed to convene a side event on the issue on Monday afternoon.

#### **IMPLEMENTATION OF THE AGREEMENT**

Chair Balton introduced the agenda item on consideration of national, subregional, regional and global implementation of the Agreement, inviting participants to report on progress at all levels.

##### **IMPLEMENTATION AT THE NATIONAL LEVEL:**

Announcing their new status as a party to the Agreement, Japan emphasized that they had already implemented most provisions of the Agreement prior to signature, through RFMOs. The European Commission (EC) said that 24 of the European Union's (EU) 27 member states have ratified UNFSA and that the remaining countries are expected to accede by the end of 2007. Noting the importance of RFMOs for implementing the agreement, he appealed to all countries to help realize an international network of RFMOs.

Highlighting UNFSA's pivotal role in global sustainable fisheries management, Canada stressed the importance of collaboration between state and non-state parties. He emphasized that while ratifying UNFSA is essential, states must have the ability to implement its provisions, and therefore urged parties to contribute to the Assistance Fund under Part VII (Requirements of Developing States) of the Agreement, highlighting that Canada had contributed C\$500,000 over the last two years.

Australia congratulated the nine new UNFSA member states on accession and encouraged non-parties to follow suit. He urged participants at the meeting to find ways to strengthen and implement the Agreement's provisions and highlighted his country's interest in participating in developing a management procedure for southern bluefin tuna. Senegal applauded the accession of the nine states, and said her country is on its way to implementing all provisions of the Agreement. The Worldwide Fund for Nature (WWF) encouraged non-parties to ratify the

Agreement, called on developed countries to assist interested countries in the ratification process, and expressed willingness to do the same.

The US highlighted recent national developments for implementing the UNFSA at the national level, including signing of the new Magnuson Stevenson Fisheries Act and creation of the Northwestern Hawaiian Islands Marine National Monument.

**IMPLEMENTATION AT THE SUBREGIONAL AND REGIONAL LEVELS:** A number of delegates outlined progress within RFMOs, including: establishment of an ICCAT working group to address fishing overcapacity; efforts within the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Indian Ocean Tuna Commission (IOTC) and the Western and Central Pacific Fisheries Commission (WCPFC) to address bycatch and catch of non-target species; and progress under the WCPFC on mechanisms for boarding and inspection, vessel monitoring, and seabird and shark conservation.

New Zealand reported on the ongoing negotiation of a new RFMO to manage fish stocks in the South Pacific, co-sponsored by New Zealand, Australia and Chile, noting that two meetings have been held to date. He stressed that the new RFMO should apply best practices, ecosystem-based management and precaution, and should adopt interim measures to apply before the new convention comes into force, particularly in relation to bottom fishing, vessel monitoring, compliance and control. Chile added that the next meeting relating to a new South Pacific RFMO will be held in Reñaca, Chile, from 30 April - 4 May 2007, preceded by working group meetings on information and data, and on science. IUCN – the World Conservation Union and the Permanent Commission for the South Pacific (CPPS) called for the meeting in Chile to adopt interim measures.

Japan commended the establishment of new RFMOs, including the one currently under negotiation in the South Pacific, and noted that Japan is member of all five tuna RFMOs. However, he emphasized that implementing RFMO provisions is expensive, and noted the need to balance cost and effectiveness. Canada highlighted the development of a model RFMO, which aims to provide guidelines for best practices and set a benchmark against which RFMO reviews can take place, and noted that a draft report is now available.

The EC praised the Kobe meeting and suggested that the next meeting of tuna RFMOs be held in Spain in May 2009. He added that the work of other RFMOs needs to be coordinated and, with Canada and the Natural Resources Defense Council (NRDC), called for RFMOs relating to fish stocks other than tuna to convene an event similar to the Kobe meeting. ICCAT noted that the five tuna RFMOs now have a joint website that includes information on vessels carrying out illegal, unreported and unregulated (IUU) fishing activities, and the results of the Kobe meeting. Australia encouraged non-tuna RFMOs to follow the Kobe meeting's lead in working towards closer cooperation on monitoring, control and surveillance, and stock assessments.

The Republic of Korea expressed interest in the development of a new RFMO for the Southeast Atlantic. China expressed willingness to participate in the work to establish an RFMO in the Northwest Pacific. NRDC expressed concern that the interim provisions adopted during the development of a new RFMO for the Northwest Pacific do not fulfill UNGA resolution

61/105 requirements for the protection of vulnerable ecosystems, but instead specifically permit bottom trawling to continue in vulnerable areas.

Mexico highlighted international cooperation as the most important element for preserving marine ecosystems, and said cooperation can be improved through RFMOs. WWF urged countries to recognize and carry out within RFMOs their obligations under other agreements, including the UN Convention on the Law of the Sea, the Convention on Biological Diversity, the Convention on Migratory Species and the Convention on International Trade in Endangered Species in Wild Fauna and Flora.

Senegal highlighted a West African subregional plan of action for the conservation and management of sharks that encourages member countries to move towards adoption of a national shark plan, and reported that her own country's plan is in the process of being implemented.

#### **IMPLEMENTATION AT THE GLOBAL LEVEL:**

Australia proposed that improving high seas governance is the key to managing highly migratory and straddling fish stocks, and said the ultimate measure of success should be the long-term conservation and sustainable use of fish stocks.

Japan supported continuing the development of common criteria for reviewing tuna RFMOs. Australia agreed, and suggested that the criteria and methodology for reviewing tuna RFMOs could be applied to all RFMOs. New Zealand, WWF, IUCN and NRDC said that one common set of criteria should be developed for use by all RFMOs, with New Zealand stating the need for a transparent method for assessing fish stocks under the purview of RFMOs. NRDC added that review criteria are only one part of an effective process for RFMO review, and urged the meeting to also consider a process for applying the criteria.

Iceland advocated utilizing the momentum built following the Review Conference to progress: the first NEAFC performance review; revision of the Northwest Atlantic Fisheries Organization (NAFO) convention; and negotiations on new RFMOs to fill gaps in high seas areas.

A number of participants, including Norway, Canada, Iceland and New Zealand, welcomed the recent COFI decision to work on a binding international instrument on port state controls, with Norway announcing a willingness to contribute funding to this work through FAO.

Many participants urged addressing IUU fishing, with the Republic of Korea calling for effective monitoring, control and surveillance measures, and supported by Japan, advocating establishing a genuine link between vessels and flag states. Iceland stressed the need to ensure responsible flag state performance, suggested consideration of possibilities for action against vessels where there are no responsible flag states at hand, and welcomed COFI's decision to ask FAO to consider starting work on this issue. Norway added the need to identify the obligations that a flag state must fulfill in order to be considered "responsible" in fisheries matters. Canada and New Zealand welcomed efforts towards a global register for fishing vessels, with WWF emphasizing the need for the list to include owners, operators and related insurers and banks. The EC advocated addressing IUU fishers' access to ports and markets, and responsibility of flag states for IUU vessels. He noted the

need to identify priorities on how to address these issues at the international level to achieve the full implementation of the UNFSA.

Japan said that RFMOs are vital for the implementation of the UNFSA, emphasized the importance of flag state responsibility, and said his country is fighting against illegal longline tuna fishing vessels by setting flag state criteria in the ICCAT. He noted that fishing capacity is still growing in the northern Pacific, and expressed the need to balance the aspirations of developing countries with efforts to contain overcapacity. New Zealand noted that addressing overcapacity will require examination of fishing allocations, stating that overcapacity and overcapitalization will continue if individual boats are not required to limit their take.

#### **IMPLEMENTATION OF THE OUTCOME OF THE REVIEW CONFERENCE**

##### **PROGRESS IN IMPLEMENTATION OF THE REVIEW CONFERENCE OUTCOME:**

Chair Balton introduced the agenda item, highlighting the four Review Conference outcome areas: fish stocks conservation and management; international cooperation and non-members; monitoring, control and surveillance, and compliance and enforcement; and developing states and non-parties.

Noting agreement from the Review Conference that states need to work independently and collaboratively through RFMOs to achieve full implementation of the UNFSA, Namibia supported Australia's call for parties to the Agreement to be obligated to join RFMOs in the regions where their vessels fish. He also called on all signatory states that fish in the South East Atlantic Fisheries Organisation (SEAFO) area to become party to the Organisation and implement its conservation measures.

Canada reminded participants that the recommendations were adopted by consensus at the Review Conference and should be implemented by all. He highlighted progress since the Conference, such as NAFO's adoption of stronger monitoring, control and surveillance methods, but noted that key challenges still exist, including achieving greater adherence to scientific advice within RFMOs and addressing IUU fishing. The US praised progress on implementing the Review Conference recommendations, and highlighted areas that need further work, including: strengthening conservation and management measures for unregulated straddling and highly migratory stocks, notably sharks; developing and enforcing bans on shark finning; enhancing understanding and application of ecosystem approaches; and intensifying data collection and reporting by RFMOs. The EC called for prioritizing: addressing IUU fishing through flag, coastal and market state measures; improving the functioning of RFMOs; and evaluating RFMOs according to the rules of procedure of each.

Mexico expressed the view that non-party participation had not been on an equal footing at the Review Conference, and also said deliberations on procedure had overshadowed issues related to sustainability, most notably IUU fishing. He highlighted: the need to adjust fishing efforts to be commensurate with the condition of the resources; the need for RFMOs to respect scientific assessment and recommendations for managing resources; and the need to use more selective fishing methods.

New Zealand reminded delegates of the Review Conference recommendation that called for RFMOs to undergo an urgent performance review using transparent criteria, and make the results publicly available. He added that the criteria developed in the side event during the informal consultations are of general application and not limited to tuna RFMOs, and suggested that the outcomes of the side event be transmitted to all RFMOs. NRDC and Australia agreed, with Australia explaining that the advantages of a common review framework include: cost effectiveness; consolidation of experience; and improved comparability, robustness and credibility. Iceland agreed that RFMO performance reviews are necessary, but said that common criteria are not needed. He stated that the criteria discussed in the side event relate only to tuna RFMOs.

WWF voiced disappointment that the discussion about criteria for the review of tuna RFMOs was so contentious, saying the topic is critical to expanding RFMOs and making them more effective. He urged governments to think about their accountability to the global community. IUCN called for RFMOs to assist the review process by undertaking a transparent self-assessment based on common criteria. To promote a fair and balanced outcome, he said the self-assessment panel would need government and non-governmental assessors from within and outside RFMOs, as well as from a variety of backgrounds. NRDC emphasized that the assessment panel needs to be largely independent, incorporate representatives from a broad range of interests, include those who do not fish in the region, and follow a regular and transparent process.

Australia voiced strong concern that some states continually fail to cooperate with RFMOs despite fishing those waters, and said that such fishing undermines international efforts to effectively manage fisheries. Japan emphasized fishing allocation as the primary contentious issue facing tuna RFMOs, noting that those negotiations are becoming more difficult every year.

Acting Chair Holly Koehler (US) introduced a statement provided by the FAO regarding implementation of paragraph 19 of the outcome of the Review Conference, relating to collection and dissemination of fisheries data and revision of FAO's global fisheries database.

**PROMOTION OF FURTHER RATIFICATION AND ACCESSION TO THE AGREEMENT:** Acting Chair Koehler introduced the annual report on the activities of the Assistance Fund, provided by FAO in response to a request by the Review Conference. UNDOALOS provided an update on its activities to publicize the Assistance Fund, including website updates, and announced that information on the availability of the Assistance Fund would be circulated to all states.

Norway, the EC and Brazil stressed the need to increase ratification of the UNFSA. Norway noted that some developing coastal states have a misconception that the UNFSA is not relevant to their national waters, and announced a paper and model for accession intended to assist and encourage states to ratify the Agreement. The EC and Mexico encouraged addressing obstacles to further ratifications through dialogue between parties and non-parties, particularly on compatibility and inspection and boarding.

**RESUMPTION OF THE REVIEW CONFERENCE:** Acting Chair Koehler sought views from parties on when they might wish to reconvene the review conference, recognizing

that under Article 36 of the UNFSA, the UN General Assembly would need to decide to reconvene the conference. While a specific year was not determined, the meeting agreed that there was no need to reconvene the review conference earlier than 2010 or 2011.

Canada recalled the pivotal role of the fifth round of Informal Consultations of States Parties to the Agreement in planning and organizing the Review Conference and urged a similar model for its resumption. Supported by the EC, he said that the Secretary-General's report on the UNFSA had facilitated the consultations and suggested that this process be used again. Iceland noted that issues such as the rules of procedure have mostly been resolved, and that those procedures need only to be resumed when the Review Conference is reconvened.

### **NEXT ROUND OF INFORMAL CONSULTATIONS**

Acting Chair Koehler sought views from parties on when they might wish the next informal consultations of the states parties to the Agreement to occur. Some participants suggested that the next round of informal consultations could occur in 2009 as preparation for the resumption of the Review Conference. A more prevalent view was the next informal consultations should occur in 2008 in order to maintain momentum. Acting Chair Koehler requested delegates to reflect further on the issue, which would be taken up at the 62nd session of the UN General Assembly.

### **RECOMMENDATIONS TO THE UNGA AND CLOSE OF MEETING**

Acting Chair Koehler sought input on whether participants were ready to suggest recommendations to be conveyed by states parties to the 62nd session of the UN General Assembly. No recommendations were put forward by parties. It was announced that the official meeting report will be posted on the UNDOALOS website.

Acting Chair Koehler thanked participants, and closed the meeting at 5:52 pm.

### **SIDE EVENT ON CRITERIA FOR REVIEWING THE PERFORMANCE OF RFMOS**

The side event on criteria for reviewing the performance of RFMOs took place on Monday afternoon and Tuesday morning, during which time the sixth informal consultations were adjourned. The side event was chaired by David Balton (US), who introduced a paper containing a draft list of possible recommended criteria for reviewing the performance of RFMOs. He explained that the work on the criteria had commenced at the Joint Meeting of Tuna RFMOs in Kobe, Japan, and had also been discussed in the margins of COFI-27. He also described the agreements from the Kobe meeting, including, *inter alia*:

- the five tuna RFMOs would have their performance reviewed according to common criteria;
- the reviews should be undertaken by individuals from the RFMO secretariats as well as independent, outside experts;
- results should be presented to the RFMOs and made public on the RFMO websites;
- the reviews should commence in the near future, even though the specific criteria have not yet been developed; and
- each RFMO should decide on the timing of its first performance review and subsequent reviews.

Chair Balton expressed the hope that the side event would result in an approved set of criteria, and suggested that the criteria, once agreed upon, could be e-mailed to the tuna RFMOs and copied to all other RFMOs. A few delegates stated that there was no mandate to develop common criteria for RFMO reviews, and emphasized that any discussions would have no official status.

In the ensuing discussion, there was consensus on the urgent need for RFMO performance reviews, but participants disagreed on whether the criteria under discussion would focus on tuna RFMOs or include all RFMOs. Some participants noted that these criteria would be of interest to all RFMOs, saying that similar standards are already circulating in the public domain. Others disagreed about creating such overarching criteria, noting that since the exercise originated at the Kobe meeting, the criteria should therefore focus on tuna RFMOs. One participant noted that the call for urgent performance reviews of RFMOs arose from the UNFSA Review Conference outcome, and therefore predated the Kobe meeting. A few participants emphasized that if the information was to be disseminated to other RFMOs, it should be done for informational purposes only.

Participants discussed the draft paper, which included proposals for general and specific criteria for reviewing RFMOs. On assessing efforts to address IUU fishing, participants agreed to include criteria on market state measures in addition to port, flag and coastal state measures, and also discussed controlling the actions of nationals, and enforcement against irresponsible vessels by states other than the flag state.

In discussions on reviewing administrative and institutional aspects of RFMOs, participants agreed that the criteria should examine the extent to which financial and other resources are made available to achieve the RFMO's aims, and the efficiency and cost-effectiveness of the RFMO's administrative arrangements.

Significant discussion ensued on criteria for reviewing RFMO fishing allocations, with a few delegates seeking to include references to sustainability when allocating fishing opportunities. A few participants from distant-water fishing states pointed out that allocations are simply a division of the already-established total allowable catch, and that sustainability is therefore not a factor used in determining allocations. Some developing country attendees added that under the UNFSA, fishing allocations should take into account requests from new RFMO members or from new participants in management arrangements. As a compromise, the criterion on fishing allocations assesses the extent to which the RFMO agrees on the allocation of allowable catch or levels of fishing effort, including taking into account "requests for participation from new members or participants." In addition, participants agreed to include criteria assessing: the extent to which the RFMO has adopted conservation and management measures that ensure the long-term sustainability for both target stocks and non-target species; and the extent to which the RFMO recognizes the special needs of developing states.

Participants also discussed assessing, *inter alia*: efforts to address gaps in information, particularly in relation to data submission by members; effectiveness of market-state measures; and the application of precaution by RFMOs.

Repeated debate arose on whether to expressly refer to the UNFSA in criteria relating to, *inter alia*: flag state duties, port state measures, fishing allocations and precaution. One participant from a Latin American non-party proposed removal of specific references to the Agreement, as it does not bind non-parties, whereas many participants, particularly from developed country parties, opposed the suggestion. Participants found compromise by wording references to the UNFSA in a non-mandatory fashion, using phrases such as "as reflected in" or "taking into account" rather than "in accordance with" the UNFSA.

The final document from the side event lists criteria for assessing RFMO performance in the following areas: conservation and management; compliance and enforcement; decision making and dispute settlement; international cooperation; and financial and administrative issues. Participants ended the side event having reached agreement on most, but not all criteria. Outstanding issues included how to refer to precaution, and whether the document related to all RFMOs or only tuna RFMOs.

In closing the side event, Chair Balton assured participants that he considered the document outlining the draft criteria to be unofficial and that, although most sections had been agreed, it was not a consensus document. He announced an intention to e-mail the document to the tuna RFMOs, as mandated at the Joint Meeting of Tuna RFMOs in Kobe, in his capacity as a facilitator from the Kobe meeting. He added that the document would also be copied to all other RFMOs for informational purposes only, and closed the side event at the end of the morning session.

## A BRIEF ANALYSIS OF THE INFORMAL CONSULTATIONS

The short two-day round of informal consultations of parties to the United Nations Fish Stocks Agreement (UNFSA) heard reports on a range of actions demonstrating that many states are starting to make progress in implementing some of the recommendations of last year's Review Conference. While the overall atmosphere during the informal talks was one of constructive and incremental progress, most participants acknowledged that plenty of work remains to be done to improve the functioning of the UNFSA. Furthermore, familiar divides between parties and non-parties, and between distant-water fishing nations and coastal states, were still evident, most notably during the somewhat atypical "side event" on criteria for Regional Fisheries Management Organization (RFMO) reviews, which dominated the two-day period.

This brief analysis will outline the main signs of progress since the Review Conference, discuss the impact of the side event, and look ahead to the UNFSA's next steps.

### TAKING STOCK

For many, the health of the UNFSA was vividly demonstrated by the nine new ratifications since the Review Conference, most notably by Japan, a major fishing state and the world's largest tuna market, bringing the total number of parties to 66. Participants also welcomed the agreement of the FAO's Committee on Fisheries (COFI) to consider possibilities for addressing irresponsible flag state behavior, and to work towards a binding port state instrument to combat illegal,

unreported and unregulated (IUU) fishing. Progress was also reported in RFMO initiatives, such as: the first North East Atlantic Fisheries Commission (NEAFC) review; stronger monitoring, control and surveillance methods for the North Atlantic Fisheries Organization (NAFO); setting flag state criteria to fight illegal longline fishing in the International Commission for the Conservation of Atlantic Tunas (ICCAT); and negotiations towards new RFMOs in the South Pacific and Northwest Pacific. Finally, the first joint meeting of all five tuna RFMOs in Kobe, Japan in January 2007 resulted in, *inter alia*, data sharing of IUU vessel lists, and agreement that the five RFMOs should have their performance reviewed in accordance with a common methodology and based on common criteria. This latter development perhaps influenced discussion at the informal consultations more than any other recent development, as participants recognized the significance of the increasing collaboration between RFMOs and extent to which common criteria could affect the utility of RFMO performance reviews.

### “ON THE SIDE”

Efforts to work towards common criteria for RFMO reviews dominated the sixth informal consultations, despite occupying very little “official” plenary time, as half of the two-day meeting was devoted to a “side event” on the matter. Supporters of the exercise emphasized that the work followed directly from a Review Conference recommendation, stressed the importance of progressing the issue before the various RFMO annual meetings take place, and added that work in Kobe and in the margins of COFI had primed most delegates to consider the matter in one way or another in New York.

On the other hand, numerous other participants did not regard common criteria for RFMO review to be a priority deserving of a full day of meeting time, regretting procedural irregularities and asserting the lack of mandate for developing common criteria. With improvements to global fisheries management still urgently needed, those delegates regarded the side event as something of a distraction, and lamented the scant time devoted to addressing other pressing issues such as IUU fishing and barriers to UNFSA ratification, which the Review Conference had identified as some of the biggest challenges facing the Agreement.

Despite the divisions, all participants were constructive during the side event, and it was clear that all delegates regarded some form of RFMO review to be vital, although consensus was not reached on how each RFMO should conduct its review, and whether the draft review criteria should be common to all RFMOs, or only apply to tuna RFMOs. Many participants agreed that useful progress was made in developing and refining the criteria, although agreement was not reached on every element.

### FUTURE STEPS

Throughout the meeting, delegates speculated about the next steps in the UNFSA. They indicated that the next opportunity for implementing recommendations from the Review Conference would arise in each of the upcoming annual RFMO meetings scattered throughout the year, and seemed especially interested in how the draft criteria from the side event would be incorporated into those discussions. Additionally debates during the 62nd session of the UN General Assembly later this year will likely address the format, timing and subject matter of the next round of informal consultations. Many delegates suggested that a key

feature of future talks should be a dialogue with non-parties to address barriers to ratification. The UN General Assembly will decide whether the seventh round of informal consultations will take place in 2008 or 2009, however, most delegates expressed the need for consultations to continue on an annual basis, given the need for further improvement in UNFSA implementation.

Further into the future, the expected 2008 meeting of the UN General Assembly *Ad Hoc* Open-ended Informal Working Group on marine biological diversity beyond areas of national jurisdiction will again put the spotlight on the fisheries sector in the broader context of marine conservation and sustainable management. Given the high level of international interest in marine biodiversity issues, fisheries actors will want to demonstrate progress. Judging by reports at the sixth informal consultations, RFMOs are taking some action, but differences over procedure within the informal consultations and the Review Conference may yet limit progress in tackling major challenges such as barriers to further ratification. Significant progress will depend upon parties and non-parties alike increasing their cooperation and displaying a genuine willingness to fully implement the UNFSA.

## UPCOMING MEETINGS

### THIRD INTERNATIONAL MEETING ON THE ESTABLISHMENT OF THE SOUTH PACIFIC REGIONAL FISHERIES MANAGEMENT ORGANISATION:

This meeting will take place from 28 April - 4 May 2007, in Reñaca, Chile. This meeting is aimed at the establishment of an RFMO that would manage straddling and high seas stocks of fishery species not covered by the WCPFC, in the South Pacific. For more information, contact the Acting Secretariat: tel: +61-2-6272-5650; fax: +61-2-6272-4875; e-mail: [enquiries@southpacificrfmo.org](mailto:enquiries@southpacificrfmo.org); internet: <http://www.southpacificrfmo.org/event.third-meeting/>

### 30TH ANTARCTIC TREATY CONSULTATIVE

**MEETING:** This meeting will be held from 30 April - 11 May 2007, in New Delhi, India. For more information, contact: Ajai Saxena; tel: +91-11-2-436-0865 or 2-430-6818; fax: +91-11-2-436-0336; e-mail: [secretariat@atcm2007.gov.in](mailto:secretariat@atcm2007.gov.in); internet: <http://www.atcm2007.gov.in/>

### EUROPEAN CONFERENCE ON MARITIME POLICY:

This conference will be held from 2-4 May 2007, in Bremen, Germany. The conference will seek to promote a dialogue on an integrated maritime policy and sustainable development in the maritime sector and will review the preliminary results of the ongoing process of consultation. For more information, contact: Press Unit of the Federal Ministry of Transport, Building and Urban Affairs; tel: +49 (0) 30-2008-2040; internet: <http://www.bmvbs.de/-,2655.987771/Future-Maritime-Policy-in-the-.htm>

### ELEVENTH SESSION OF THE INDIAN OCEAN TUNA COMMISSION (IOTC):

This session will take place from 13-18 May 2007, in Grand Baie, Mauritius. For more information, contact the IOTC Secretariat; tel: +248 225-494; fax: 224-364; e-mail: [iotc.secretary@iotc.org](mailto:iotc.secretary@iotc.org); internet: <http://www.iotc.org>

**FIRST MEETING OF THE CONFERENCE OF THE PARTIES TO THE FRAMEWORK CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE CASPIAN SEA:** This meeting will be held from 23-25 May 2007, in Baku, Azerbaijan. The Framework Convention lays

down the general requirements and the institutional mechanism for environmental protection in the Caspian region. For more information, contact: UNEP Regional Office for Europe; tel: +41-22-917-8326; fax: +41-22-797-3464; e-mail: gen.secretary@unep.ch; internet: [http://www.unep.ch/roe/Caspian\\_cop1.htm](http://www.unep.ch/roe/Caspian_cop1.htm)

**75TH MEETING OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION (IATTC):** This meeting will be held from 27-29 May 2007, in La Jolla, California, US. For more information, contact the IATTC Secretariat; tel: +1-858-546-7100; fax: +1-858-546-7133; e-mail: webmaster@iattc.org; internet: <http://www.iattc.org/>

**59TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION:** This meeting will take place from 28-31 May 2007, in Anchorage, Alaska, US. For more information, contact: IWC Secretariat; tel: +44-1223-233-971; fax: +44-1223-232-876; e-mail: secretariat@iwcoffice.org; internet: <http://www.iwcoffice.org>

**CITES COP-14:** The 14th Conference of the Parties to the Convention on International Trade in Endangered Species in Wild Fauna and Flora will take place from 3-15 June 2007, in The Hague, the Netherlands. For more information, contact: CITES Secretariat; tel: +41-22-917-8139; fax: +41-22-797-3417; e-mail: info@cites.org; internet: <http://www.cites.org>

**17TH MEETING OF STATES PARTIES TO THE UN CONVENTION ON THE LAW OF THE SEA:** This meeting will be held from 18-22 June 2007, at UN headquarters in New York. For more information, contact Secretary of the Meeting of States Parties; tel: +1-212-963-3972; fax: +1-212-963-5847; e-mail: doalos@un.org; internet: [http://www.un.org/Depts/los/meeting\\_states\\_parties/forthcomingmeetingtatesparties.htm](http://www.un.org/Depts/los/meeting_states_parties/forthcomingmeetingtatesparties.htm)

**EIGHTH MEETING OF THE UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA (UNICPOLOS-8):** This meeting will take place from 25-29 June 2007, at UN headquarters in New York. For more information, contact: UN Division on Ocean Affairs and the Law of the Sea; tel: +1-212-963-3962; fax: +1-212-963-2811; e-mail: doalos@un.org; internet: [http://www.un.org/Depts/los/consultative\\_process/consultative\\_process.htm](http://www.un.org/Depts/los/consultative_process/consultative_process.htm)

**FOURTH ANNUAL SOUTH EAST ATLANTIC FISHERIES ORGANISATION (SEAFO) MEETING:** This meeting will take place from 8-12 October 2007, in Windhoek, Namibia. For more information, contact: SEAFO Secretariat; tel: +264-64-220387; fax: +264-64-220389; e-mail: info@seafo.org; internet: [www.seafo.org](http://www.seafo.org)

**14TH ANNUAL MEETING OF THE COMMISSION FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA (CCSBT):** This meeting will be held from 16-19 October 2007, in Canberra, Australia. For more information, contact Executive Secretary Neil Hermes; tel: +61-2-6282-8396; fax: +61-2-6282-8407; e-mail: nhermes@ccsbt.org; internet: <http://www.ccsbt.org/>

**26TH REGULAR MEETING OF THE COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES (CCAMLR):** This meeting will take place from 22 October - 2 November 2007 in Hobart, Australia. For more information, contact CCAMLR Secretariat; tel: +61-3-6210-1111; fax: +61-3-6224-8744; e-mail: ccamlr@ccamlr.org; internet: <http://www.ccamlr.org/>

**20TH MEETING OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT):** This meeting will take place from 12-18 November 2007, in Istanbul, Turkey. For more information, contact ICCAT Secretariat; tel: +34-91-416-5600; fax: +34-91-415-2612; e-mail: info@iccat.int; internet: <http://www.iccat.es/>

**FOURTH REGULAR SESSION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC):** This conference will be held from 3-7 December 2007, in Pohnpei, Federated States of Micronesia. For more information, contact: WCPFC Secretariat; tel: +691-320-1992 or 320-1993; fax: +691-320-1108; e-mail: wcpfc@mail.fm; internet: <http://www.wcpfc.int/>

**FOURTH GLOBAL CONFERENCE ON OCEANS, COASTS AND ISLANDS:** This conference will take place from 7-11 April 2008, in a location to be determined. The theme will be "Advancing ecosystem management by 2010 and integrated coastal and ocean management." For more information, contact: Miriam Balgos, Global Forum Secretariat; tel: +1-302-831-8086; fax: +1-302-831-3668; e-mail: mbalgos@udel.edu; internet: <http://www.globaloceans.org>

**AD HOC OPEN-ENDED INFORMAL WORKING GROUP ON MARINE BIOLOGICAL DIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION:** The next meeting of the Working Group is expected to take place in 2008, as called for in UN General Assembly resolution 61/222. For more information, contact: UNDOALOS Secretariat; tel: +1-212-963-3962; fax: +1-212-963-5847; e-mail: doalos@un.org; internet: <http://www.un.org/Depts/los/>

**UNFSA REVIEW CONFERENCE:** The review conference to the UN Fish Stocks Agreement is expected to resume no later than 2011. The date will be determined at a future informal consultation of the states parties to the Agreement in either 2008 or 2009. For more information, contact: UNDOALOS Secretariat; tel: +1-212-963-3962; fax: +1-212-963-5847; e-mail: doalos@un.org; internet: <http://www.un.org/Depts/los/>

## GLOSSARY

<b>CCAMLR</b>	Commission for the Conservation of Antarctic Marine Living Resources
<b>COFI</b>	FAO Committee on Fisheries
<b>CPPS</b>	Permanent Commission for the South Pacific
<b>ICCAT</b>	International Commission for the Conservation of Atlantic Tunas
<b>ICSP</b>	Informal Consultations of States Parties to the Agreement
<b>IOTC</b>	Indian Ocean Tuna Commission
<b>IUCN</b>	World Conservation Union
<b>IUU fishing</b>	Illegal, Unreported and Unregulated fishing
<b>NAFO</b>	North Atlantic Fisheries Organization
<b>NEAFC</b>	North East Atlantic Fisheries Commission
<b>NRDC</b>	Natural Resources Defense Council
<b>RFMO</b>	Regional Fisheries Management Organization
<b>SEAFO</b>	South East Atlantic Fisheries Organisation
<b>SIOFA</b>	Southwest Indian Ocean Fisheries Agreement
<b>UNDOALOS</b>	UN Division for Ocean Affairs and the Law of the Sea