

## UNFSA REVIEW HIGHLIGHTS: MONDAY, 22 MAY 2006

The Review Conference of the UN Fish Stocks Agreement (UNFSA or the Agreement) opened on Monday, 22 May 2006, at UN headquarters in New York. In plenary, participants addressed organizational matters in the morning and undertook the review of the Agreement's provisions on conservation and management throughout the day. A drafting committee met in the evening.

### PLENARY

**OPENING OF THE CONFERENCE:** Vladimir Golitsyn, Director of the UN Division for Oceans Affairs and the Law of the Sea (UNDOALOS), opened the meeting. Participants appointed Amb. David Balton (US) President of the Conference by acclamation. Balton noted the powerful role of the Agreement in influencing fisheries management, and pointed out the need to improve the status of the resources, referring to FAO reports stating that around 30% of highly migratory stocks of tuna and tuna-like species and two-thirds of high seas fish stocks are overexploited or depleted. He called for an open and inclusive meeting, with all participants having a reasonable chance to contribute.

**Rules of procedure:** President Balton introduced the provisional rules of procedure (A/CONF.210/2006/6) and suggested that work on matters of substance, including the final report, proceed on the basis of "general agreement" wherever possible, and that a vote should only occur if general agreement proves impossible to achieve.

CHINA, MEXICO, PERU, GUATEMALA, GUINEA and the REPUBLIC OF KOREA asserted that under UNFSA Article 36 (Review Conference), parties and non-parties should participate on a full and equal footing, and expressed concern about joining consensus on the provisional rules. CHINA suggested that the rules remain provisional, and that decision making only be by consensus for matters of substance. CANADA, ICELAND, AUSTRALIA and Austria, on behalf of the EUROPEAN UNION (EU), noted that agreement on the provisional rules had already been achieved at ICSP-5, and preferred to avoid voting wherever possible and to work towards general agreement. AUSTRALIA proposed formally adopting the provisional rules, whereas CANADA, ICELAND and the EU could accept applying the rules provisionally.

The UN OFFICE OF LEGAL COUNSEL clarified that consistent with UN practice, provisional rules of procedure should be adopted by parties to the Agreement. President Balton suggested, and delegates agreed, that the entire set of rules of procedure be used on a provisional basis, and that their formal adoption be considered if the need arises.

**Other organizational matters:** Participants adopted the provisional agenda (A/CONF.210/2006/3) without amendment. They nominated Spain, Fiji, the Russian Federation, Guinea and Brazil as party Vice-Presidents of the Conference, and China and Chile as non-party Vice-Presidents.

President Balton presented, and delegates adopted, the organization of work (A/CONF.210/2006/4), proposing that a drafting committee convene after plenary discussions on a particular cluster, and report back to plenary. After postponing appointment of the Credentials Committee, pending submission of regional group nominations, President Balton presented the report of ICSP-5 (ICSP5/UNFSA/REP/INF.1).

**REVIEW OF UNFSA PROVISIONS:** UNDOALOS Director Golitsyn, on behalf of the UN OFFICE OF LEGAL COUNSEL, presented an overview of the provisions of the Agreement, noting the need for enhanced implementation by increasing the number of parties and addressing obstacles preventing States from becoming parties.

**General statements:** The EUROPEAN COMMISSION (EC) called for strengthening regional approaches to collective fisheries management, broadening the coverage of RFMOs, and increasing membership of the Agreement. Papua New Guinea, on behalf of the PACIFIC ISLANDS FORUM, identified four priority areas: improving implementation of the Agreement; increasing participation in UNFSA; addressing illegal, unregulated and unreported (IUU) fishing; and providing development assistance. JAPAN reported on progress in the domestic process to join UNFSA, and informed participants of a joint meeting of tuna regional fisheries management organizations (RFMOs) in early 2007 in Japan. CHINA highlighted the importance of aquaculture in relieving pressure on fish stocks. SRI LANKA prioritized addressing IUU fishing.

GUINEA and others emphasized the need to increase the membership of the Agreement. MEXICO stressed the need to address issues preventing more countries from becoming parties to the Agreement, and underlined compatibility with UNCLOS articles on high seas activities. With CHILE, he stated that high seas fishery activities should not undermine management of stocks in adjacent exclusive economic zones (EEZs). INDONESIA suggested the Review Conference formulate incentives for non-parties to join UNFSA, rather than developing further obligations that may prevent them from joining.

PALAU, supported by the NATURAL RESOURCES DEFENCE COUNCIL (NRDC) and GREENPEACE, proposed calling for interim measures to prohibit unregulated bottom trawling, modeled after the General Assembly resolution 44/225 on driftnet fishing. BRAZIL supported a moratorium on all bottom trawling in areas beyond national jurisdiction. The

REPUBLIC OF KOREA noted ongoing discussions on a possible new RFMO for the management of high seas bottom trawling and related marine biodiversity in the Northwest Pacific Ocean.

The INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNA highlighted challenges in data collection and reporting and in implementing science-based management programmes. SAINT LUCIA and others called for additional assistance in implementing the Agreement. TONGA prioritized more clearly defining areas of support for developing fisheries for food security in local communities.

The INTERNATIONAL COALITION OF FISHERIES ASSOCIATIONS expressed support for governments' actions on IUU fishing and development of new RFMOs and other arrangements to fill gaps in oceans management. The WORLD WIDE FUND FOR NATURE (WWF) called for true commitment to implementing the ecosystem approach and interim arrangements to address destructive fishing practices. The WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION reported on regional initiatives for implementation of the Agreement, highlighting concerns over continuing capacity increases and scientific data gaps. The PACIFIC ISLANDS FORUM underlined the importance of the effective participation of small island developing States in the implementation of the Western and Central Pacific Ocean Fish Stocks Convention.

**CONSERVATION AND MANAGEMENT: Adoption of measures:** NEW ZEALAND raised concerns regarding the insufficient application of the precautionary approach by RFMOs, and called for including the extent of application of best available science and the precautionary approach in performance assessments of RFMOs and States. CANADA called for: modern approaches to fisheries management as part of RFMO "constitutions;" wide application of the precautionary approach within and beyond areas of national jurisdiction; and basing RFMOs decision making on the best available scientific information. The US noted that fisheries management decisions often fall short of measures recommended by science and called for strengthened science for conservation and management, adoption of measures consistent with science and the precautionary approach, and better compliance with agreed measures. AUSTRALIA lamented RFMOs' lack of focus on stocks other than target stocks and on by-catch, and advocated consistency and complementarity of measures across the RFMO network.

IUCN - the World Conservation Union called for, *inter alia*: extending coverage of measures to those stocks not currently covered; taking measures to eliminate destructive fishing practices, including high seas bottom trawling; and abolishing provisions allowing States to opt out of management measures. NRDC called for the development of terms of reference for a regular, transparent assessment of RFMOs' effectiveness in implementing the provisions of the Agreement.

**Overfishing and capacity management:** BRAZIL attributed overcapacity primarily to developed nations' fleets, and, with INDIA, called for taking into account developing countries' rights to develop their own fisheries. CHILE noted that subsidies to high seas fisheries have hindered efforts to decrease overfishing and overcapacity, and called for their elimination. The US proposed that management organizations develop plans to reduce fishing capacity to bring it into line with fisheries resource availability, by 2012 for straddling stocks, and by 2007 for highly migratory stocks. The INTERNATIONAL COLLECTIVE IN SUPPORT OF FISHWORKERS drew attention to the benefits of selective artisanal fishing.

**Fisheries not regulated by RFMOs:** ICELAND highlighted the North-East Atlantic Fisheries Commission's efforts to undergo self-review and modernization, and said the Review Conference

should take steps towards developing new RFMOs to fill gaps in existing arrangements. The US supported independent and objective criteria for the assessment of RFMO performance, and guidance on how to strengthen RFMOs' implementation of Agreement requirements. NORWAY opposed fishing in areas where no competent RFMO has been established. BRAZIL voiced concerns about the resource implications of developing new management organizations, but indicated willingness in the long term to discuss regional management arrangements for areas not covered by RFMOs.

**Effects of fishing on the marine ecosystem:** NEW ZEALAND expressed concern that a lack of understanding of the ecosystem approach constrains its incorporation into management approaches. NEW ZEALAND and IUCN supported application of UNFSA principles to the conservation and management of discrete high seas stocks. CANADA called for developing guidelines for applying UNFSA provisions to other high seas stocks and expanding RFMOs' mandate beyond target species. NRDC and GREENPEACE opposed the proposal to develop FAO guidelines for the management of high seas discrete stocks, preferring to bring all high seas stocks within the scope of UNFSA. The EC stressed that RFMOs are currently legally obliged to incorporate conservation considerations into their management strategies. NORWAY said simple measures can reduce waste, discards, and catch by lost or abandoned fishing gear.

**Data collection and sharing:** CANADA called for RFMO Secretariats to perform annual audits of data submitted by States. The US called upon all members of RFMOs to provide comprehensive data on their activities to ensure that scientific advice can be based upon the best possible data.

Closing the session, President Balton noted that the Agreement has resulted in progress by some States and RFMOs, but emphasized that all delegations had agreed on the need for improvement, particularly on: better application of the precautionary approach; additional assistance for developing countries to implement the Agreement; overcoming the obstacles to FSA ratification; and finding ways to increase membership of the Agreement. President Balton then established an open-ended drafting committee, including two representatives of intergovernmental organizations and two of non-governmental organizations, to focus on elements relating to UNFSA provisions on conservation and management of fish stocks. He announced that the drafting committee will report to plenary on Tuesday.

#### **DRAFTING COMMITTEE**

During an evening drafting session, chaired by Fernando Curcio (Spain), delegates considered language underlining the broad recognition of UNFSA as the main guiding legal instrument for the conservation and management of the two kinds of fish stocks and as a positive tool for RFMOs to develop new strategies. They also debated whether to include reference to discrete stocks and to the need to generally apply the precautionary approach. Discussions continued into the night.

#### **IN THE CORRIDORS**

The cheerful May sunshine did little to quell delegates' initial misgivings prior to the opening of the Review Conference, as they reminisced about the exhausting exchanges on procedural issues between parties and non-parties at the March preparatory meeting. However, skillful chairing and a general desire to operate in an inclusive and consensual spirit helped settle the potentially explosive question of the voting rule, promptly moving discussions onto substantive matters. While some non-parties are still concerned about the prospect of vote-based decision making, many participants seemed content to proceed with provisional rules in place.