

UNFSA REVIEW HIGHLIGHTS: TUESDAY, 23 MAY 2006

On Tuesday, 23 May 2006, the Review Conference of the UN Fish Stocks Agreement (UNFSA or the Agreement) reviewed and assessed implementation of the Agreement's provisions on mechanisms for international cooperation and non-members. The drafting committee met twice, in the afternoon and evening, to complete discussions on conservation and management of fish stocks.

PLENARY

Conference President David Balton (US) announced that Germany, Norway, Ukraine, Mauritius, South Africa, Sri Lanka, India, Uruguay and Saint Lucia had been appointed to the credentials committee.

Drafting Committee Chair Fernando Curcio (Spain) outlined the committee's progress in negotiating draft text on the conservation and management of stocks, and highlighted delegates' willingness to reach consensus.

INTERNATIONAL COOPERATION AND NON-MEMBERS: SPAIN suggested taking into account the example of international cooperation in other marine biodiversity conservation activities, and, with BRAZIL, highlighted the value of the Agreement on the Conservation of Albatrosses and Petrels. The WORLD WIDE FUND FOR NATURE (WWF) called for a single delivery mechanism for all international obligations related to marine living resources. GREENPEACE called for a new implementation agreement to the UN Convention on the Law of the Sea to implement measures based on the precautionary principle, the ecosystem approach and prior environmental impact assessment, and an agency to coordinate international action to combat illegal, unregulated and unreported (IUU) fishing.

Integrity of RFMO regimes: The EUROPEAN COMMISSION (EC) underscored that States' interests in conducting fisheries should be coupled with effective control over ships by the States concerned, and stressed the need to enable all States and fishing entities to participate in the work of regional fisheries management organizations (RFMOs). NEW ZEALAND called for a mechanism to make RFMOs and States accountable for their performance, suggesting that: performance indicators for RFMOs be developed; initial self-assessments be undertaken by RFMOs by 2007, followed by independent performance reviews; and results and action taken to remedy deficiencies be reported to a future UNFSA review

conference. With CANADA, NEW ZEALAND also called for modernization of RFMO mandates, and encouraged broad support for the High Seas Task Force's model RFMO.

The US underscored the need for an independent external review of RFMO performance based on a uniform set of criteria, and called upon the Conference to provide specific guidance in this regard. NAMIBIA urged all relevant States' full participation in RFMO activities. WWF proposed that the annual meetings of UNFSA parties serve to assess RFMO performance. The NATURAL RESOURCES DEFENSE COUNCIL (NRDC) preferred that an international panel including both legal and scientific experts be established under the auspices of the Review Conference to assess the performance of all existing RFMOs. GREENPEACE called for international guidance on restructuring RFMOs as regional ecosystem management organizations to address the broader ecological impacts of human activities on oceans.

Fishing activity by non-members: Highlighting the need for measures to prevent IUU fishing, the EC suggested using the term "flag of non-conformity" rather than "flag of convenience" and called for clear definitions of these and related terms. CANADA encouraged non-members fishing in an RFMO area to either join the RFMO, or obey the management rules, or abstain from fishing. CANADA also called for concerted international action to address fishing vessels operating under flags of convenience, and urged the Conference to endorse strong sanctions to address non-compliant behavior.

AUSTRALIA called for better harmonization of compliance measures across RFMOs, including measures targeted at non-RFMO members, and suggested key measures to tackle fishing by non-members and IUU fishing, including: lists of authorized and unauthorized vessels; vessel monitoring systems; observers; and implementation of systems and procedures for vessel inspections. The US urged RFMOs to make the establishment of mechanisms for cooperation with non-members conditional upon the applicant's record of compliance with RFMO measures and its efforts to become a party within a reasonable timeframe. WWF cautioned against considering cooperating non-membership as a permanent status.

Papua New Guinea, on behalf of the PACIFIC ISLANDS FORUM, suggested using regional records of fishing vessels to ensure that non-members are excluded from accessing fisheries managed by RFMOs, whereas GREENPEACE preferred global registers. CHILE highlighted progress toward the establishment of a new RFMO in the South Pacific, but noted that the fishing activities and lack of cooperation of non-members are undermining its purpose.

Functioning of RFMOs: The EC noted that although RFMO statutes are generally satisfactory, their modernization remains necessary to take account of the progress made under UNFSA. NORWAY pointed to the problem of overfishing caused by disagreement on quota allocation among RFMO members, and suggested that the Conference call upon RFMOs to incorporate ecosystem and biodiversity considerations into their mandates and to initiate periodic, transparent and independent assessments. ICELAND noted the problem of fishing States' failure to agree on conservation and management measures such as total allowable catch, and said that members of each RFMO should decide on measures for RFMO performance reviews. JAPAN called for strengthening the implementation of existing measures.

INDONESIA noted that developing countries' active participation in RFMOs would contribute to strengthening the realization of RFMO commitments. The US encouraged RFMOs to modernize their observer procedures to ensure transparency. BRAZIL said that RFMO decision making should be transparent and precautionary, and comply with scientific advice. IUCN - the World Conservation Union encouraged RFMOs to increase online disclosure of information and transparency in the relationship between their governing bodies and their scientific advisory bodies. The INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNA noted that the Commission is open to observers from any government, as well as intergovernmental and non-governmental organizations (NGOs).

MEXICO called upon RFMOs to ensure the protection of non-target species and emphasized the need to move from single-species to ecosystem-based management. CANADA cautioned against competition between sectoral and integrative ecosystem-based approaches to oceans management.

The INTER-AMERICAN TROPICAL TUNA COMMISSION reported on cooperation among Secretariats of regional tuna management bodies, highlighting fishery monitoring systems and data sharing, but noted that delayed financial contributions to the Secretariats have hindered fulfillment of their mandates. The PERMANENT COMMISSION FOR THE SOUTH PACIFIC reported on its activities in cooperation with FAO, including workshops on ecolabeling guidelines and on technical and financial cooperation.

Participatory rights: NEW ZEALAND reminded delegates that UNFSA Article 11 criteria should be taken into account when determining participatory rights for new members or participants to an RFMO. JAPAN suggested using incentives, such as quota allocations and market-based incentives, to encourage non-parties to join RFMOs. The US emphasized that allocation of fishing opportunities should be based on scientific advice rather than solely on economic concerns.

CHINA called for more equitable and science-based quota systems, noting that quotas based on historical catch data disadvantage developing countries. COLOMBIA and MEXICO called for mechanisms to allocate participatory rights fairly and sustainably, and, with BRAZIL, emphasized that unfair allocation of participatory rights is a disincentive to non-members joining UNFSA and a major barrier to achieving universal acceptance of the Agreement. They added that current allocation disproportionately favors established fleets, including those supported by subsidies.

The PACIFIC ISLANDS FORUM proposed encouraging RFMOs to identify principles and criteria to determine participatory rights, taking into account equitable allocation and the needs of small island developing States. PERU stressed the

need for an equitable regime that encourages participation and respects the rights and sovereignty of States, particularly coastal States. SRI LANKA requested that potential fish production, rather than the current level of production, be considered in allotting quotas to developing nations. FIJI called for uniform standards on data collection, reporting and exchange, and minimum standards for conducting responsible fishing, urging cooperating non-members of RFMOs to become members.

Closing the session, President Balton highlighted, among other things, that RFMOs are one of the primary mechanisms for carrying forward UNFSA implementation, as well as the need for increasing their accountability and undertaking a review of their performance.

DRAFTING COMMITTEE

During an afternoon session, the drafting committee discussed proposed means of strengthening the implementation of the Agreement's provisions on the conservation and management of fish stocks. Suggestions included: better applying scientific advice and the precautionary approach to fisheries management; completing the species and geographical area coverage of RFMOs and instituting precautionary interim measures; encouraging greater political will to decrease total allowable catches and their allocation; developing measures on lost and abandoned fishing gear; and addressing subsidies and fishing overcapacity.

Delegates further discussed the need to address discrete high seas stocks. They debated whether to ask FAO to undertake a technical study of UNFSA application to these stocks, with some delegates raising concern that this would delay the Agreement's implementation with regard to straddling and highly migratory fish stocks. Discussion also focused on measures relating to the management of marine protected areas.

Informal drafting continued in the afternoon. The drafting committee resumed deliberations in the evening on the proposed means of strengthening implementation of UNFSA provisions on conservation and management, based on a revised text. Delegates extensively debated a reference to compatibility in relation to cooperation on high seas fisheries management. Some delegates raised concerns over references to establishing new RFMOs for high seas discrete stocks, and over deadlines for defining and implementing an ecosystem approach to fisheries management and reducing overcapacity. One delegation repeatedly expressed concern that multiple qualifiers were being inserted, weakening the language. Discussions continued into the night, with the committee scheduled to commence consideration of text on international cooperation and non-members on Wednesday morning.

IN THE CORRIDORS

By the end of the second day, many participants were noticing a measurable contrast between the strong statements being made in plenary, and the unambitious text being tabled in the drafting committee at such an early stage of proceedings. Some parties and NGOs feared that, rather than framing proactive solutions, the Conference outcome would end up merely repeating the principles of the Agreement and the well-worn phrasing of UNGA resolutions of recent years. A few non-parties felt that key issues such as trade measures and participatory rights were being sidelined in the drafting, suggesting that the process was being led by a restricted group of countries. Other delegates, however, remained optimistic, focusing on the constructive suggestions for improving implementation and membership of the Agreement that continued to emerge in plenary.