

UNFSA REVIEW HIGHLIGHTS: WEDNESDAY, 24 MAY 2006

On Wednesday, 24 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 monitoring, control and surveillance (MCS), and compliance and enforcement. The drafting committee met in the morning and the evening to complete discussions on conservation and management of fish stocks and to address international cooperation and non-members.

PLENARY

Drafting Committee Chair Fernando Curcio (Spain) outlined the progress of the committee in considering proposed means of strengthening the substance and methods of implementation of the Agreement's provisions on conservation and management, noting that some text remained bracketed. CANADA encouraged strong policy debates in plenary and cautioned against producing a "timid outcome," recalling that, at recent high seas fisheries meetings, ministers had rejected reforms that were seen as insufficiently bold. GREENPEACE described the text under discussion by the drafting committee as weak, general, and mostly lacking in specific recommendations.

MOZAMBIQUE and MOROCCO indicated their intention to ratify UNFSA.

MONITORING, CONTROL AND SURVEILLANCE, AND COMPLIANCE AND ENFORCEMENT: AUSTRALIA called for regulation by States of the activities of nationals, beneficial owners, support vessels, and companies involved in trading and processing fish. BRAZIL underscored the challenge of enforcing conservation and management measures without infringing the rights and freedoms ensured by international law.

Implementation of flag State duties: MAURITIUS, INDIA and Papua New Guinea, on behalf of the PACIFIC ISLANDS FORUM, highlighted developments regarding regional MCS systems. INDONESIA described its domestic regulations related to the mandatory installment of vessel monitoring systems (VMS), vessel licensing and vessel registration. SENEGAL called for supporting African States' implementation of national regulations.

CHILE expressed concern over fishing activities on the high seas that do not comply with conservation and management measures adopted in the adjacent exclusive economic zone (EEZ). The European Commission (EC) called upon the Conference to invite States to provide a strict definition of the "genuine link." AUSTRALIA and CANADA called for effective

compliance and monitoring by flag States including through using logbooks, VMS and observer records, and applying standards contained in the UN Convention on the Law of the Sea and the FAO Compliance Agreement, Code of Conduct for Responsible Fisheries and International Plan of Action on illegal, unreported and unregulated (IUU) fishing.

NEW ZEALAND called for an assessment of national legislation to determine whether States have requirements for flag vessels to refrain from fishing in areas covered by regional fisheries management organizations (RFMOs) unless they are members. ICELAND advocated that only States that comply with their responsibilities regarding flagging fishing vessels should be permitted to be considered flag States. PALAU welcomed Australia and New Zealand's vessel registration and monitoring initiatives. The INDIAN OCEAN COMMISSION noted States' difficulties in carrying out MCS activities due to their limited resources and large EEZs.

Investigation and penalization for violations: Underlining the need for appropriate penalty measures in case of non-compliance and violations, INDIA called for improved effectiveness of RFMO measures. The EC underscored the need for States to evaluate on a regular basis sanctions applied at the national level, and to exchange information with other countries.

AUSTRALIA and CANADA highlighted UNFSA boarding and inspection provisions, with CANADA also recognizing the need to address relevant non-party concerns. CANADA said that motivations for IUU fishing could be reduced using incentives, regulations and sanctions, and proposed regional sanction guidelines to ensure adequate disincentives to non-compliance. The US said that some penalties imposed by States are insufficient to deter violations, but instead become merely a cost of doing business. URUGUAY noted the need to obtain sufficient evidence for taking legal action, stating that the flag State is in the best position to apply sanctions. The WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) reported on progress on a regional regulatory framework, including satellite-based monitoring and reporting on violations and prosecutions.

Use of port State measures: CHILE suggested deterring unregulated activities on the high seas by denying the use of port services in the adjacent State. NORWAY, supported by the EC, NEW ZEALAND, GREENPEACE and the WORLD WIDE FUND FOR NATURE (WWF) suggested establishing a global legally binding instrument involving all port States, based on the FAO model scheme on port State control. JAPAN was able to cautiously consider such a legally binding instrument, but

called for a balance between a global, centralized approach and a targeted one. ICELAND expressed interest in Norway's proposal, stating that the instrument should provide a general framework to be implemented at national and regional levels. The NATURAL RESOURCES DEFENSE COUNCIL urged the drafting of a specific action plan building on the recommendations from the High Seas Task Force on legally binding port State measures, and called for interim measures to prevent imports of IUU fish catch.

With SRI LANKA and CANADA, JAPAN noted the important role of market States in combating IUU fishing. GUINEA suggested access agreements include an obligation for the fishing State to assist the coastal State with surveillance and monitoring, and, with AUSTRALIA and CANADA, emphasized port State measures such as vessel inspections and control of transshipments. CANADA recommended linking port access to the fishing history of vessels, and supported a global database of fishing vessels.

IUCN - THE WORLD CONSERVATION UNION urged States to consider a system, through RFMOs, for the inspection and regulation of transshipments. WWF underscored the importance of identifying the beneficial owners responsible for vessels and operators undertaking IUU fishing, and suggested that importing States demand verifiable documentation on the legality of catches.

GREENPEACE called for: a centralized MCS agency; a blacklist of vessels that have disregarded national or international laws; national legislation preventing flag vessels and nationals from being engaged in transshipment at sea; and penalization, in terms of restricted RFMO participation and fisheries allocations, of States that breach their flag State duties. The PERMANENT COMMISSION FOR THE SOUTH PACIFIC highlighted a recent regional workshop on port State measures to combat IUU fishing, noting the importance of exchange of information between member countries.

International cooperation: Noting that surveillance is often prohibitively costly for small island developing States, MAURITIUS called for regional technological and capacity-building cooperation, and highlighted efforts towards a cooperative MCS system in the Indian Ocean. MOROCCO highlighted active cooperation among African states, but lamented the general lack of resources. INDONESIA advocated joint management of shared fish stocks through bilateral cooperation, including measures to combat IUU fishing and to monitor landings.

The EC proposed prohibiting transshipments on the high seas, and emphasized the possibility of flexible implementation of the Agreement with a view to persuading States to join UNFSA. NEW ZEALAND suggested strengthening the voluntary International MCS Network. The US proposed: developing a comprehensive global register of fishing vessels; ensuring that all high seas fishing vessels carry VMS by 2008; auditing individual flag State performance and State control of nationals who own or control vessels registered in other nations; and implementing the FAO recommendations on open registers. BRAZIL emphasized the need to strengthen developing States' capacity with regard to MCS and VMS initiatives.

The PACIFIC ISLANDS FORUM highlighted a regional boarding and inspection regime and a regional catch documentation scheme for the WCPFC, and called for RFMOs to exchange information relating to fishing registries and violations. MEXICO preferred cooperative initiatives such as observer coverage and market controls over inspection and boarding, arguing that these should take place only with the consent of

the flag State. IUCN called for a single international database for information on IUU fishing published by RFMOs, and for continuing the informal consultations of UNFSA parties.

The FISHERY COMMITTEE FOR THE EASTERN CENTRAL ATLANTIC reported on regional cooperation to promote MCS and the formulation of national action plans to combat IUU fishing. FAO outlined its assistance in the development of national action plans on IUU fishing. The WCPFC, the INDIAN OCEAN COMMISSION and the SOUTH EAST ATLANTIC FISHERIES ORGANIZATION reported on cooperation with or between RFMOs.

In closing the session, Conference President David Balton (US) noted that participants agreed that IUU fishing is a major threat both within EEZs and on the high seas, and that many underscored the insufficient implementation of flag States' obligations. Among possible outputs for the Conference he highlighted improving port State control, promoting VMS in high seas vessels, stricter regulation of transshipments, further development of catch documentation schemes, and increasing sanctions. He also noted varying views on high seas boarding and inspection.

DRAFTING COMMITTEE

In the morning, the drafting committee continued discussing the revised draft text on conservation and management. Informal drafting on this matter was undertaken during the day, with some text remaining bracketed.

In the evening, the drafting committee began consideration of draft text on strengthening the substance and methods of implementation of the Agreement's provisions on international cooperation and non-members. Delegates discussed whether to retain a preambular reference to the requirement for cooperation in modernization and strengthening of RFMOs. They also debated whether the status of a cooperating member/party applying the conservation and management measures of an RFMO "should" or "could" serve as an interim step to full RFMO membership. Many agreed to indicate that both non-member fishing and non-compliance by members and cooperating members undermine the effectiveness of conservation and management measures.

One country representative wished to indicate that "some RFMOs" were making progress in addressing IUU fishing, or that RFMOs were making "some progress," while others preferred not to use additional qualifiers. The committee considered additional text on increasing efforts to ensure that all fish and fish products are caught in compliance with the appropriate conservation and management measures, but debated whether this recommendation be addressed to all States or only market States. Discussions continued into the night.

IN THE CORRIDORS

A packed evening drafting session indicated that "crunch time" is approaching at the Review Conference on matters of substance, but continually slow-moving negotiations and a growing number of recommendations made some concerned that late nights loom ahead. Plenary discussions on compliance and enforcement focused heavily on combating IUU fishing, with the proposal for a legally binding instrument on port State measures attracting interest. In addition, many parties emphasized the importance of the Agreement's inspection and boarding provisions, but some non-parties warned that such provisions could be a barrier to ratification. Although plenary finished slightly early, there was a feeling that the debate on this issue is still far from complete.