



United Nations

Resumed Review Conference on the Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

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Making the Fish Stocks Agreement Work

As vast as the oceans are, an ever-tightening international legal regime for high seas fisheries is making it increasingly difficult for fishing vessels to disregard international conservation and management measures. Slowly but surely, more and more ocean-going fishing vessels are abiding by rules that call for onboard observers or satellite monitoring devices to monitor the position of the ship, the time spent at a fishing position, and the course and speed of the vessels.

While the system is still far from fool-proof to prevent all instances of illegal fishing, the rules are part of intensifying global efforts to conserve and manage—and in some cases reverse—the decline in the numbers of many fish species.

One important catalyst for bringing about greater international cooperation in the management and conservation of fish species—particularly species that traverse large swaths of the oceans, such as tuna and sharks—is the 1995 United Nations Fish Stocks Agreement, which took effect in 2001. The treaty sets forth the principles, legal tools and mechanisms now being employed to maintain sustainable levels of high seas fish stocks.

At the heart of these efforts is a growing network of regional fisheries management organizations, known as “RFMOs”. These organizations have management responsibilities for fish stocks in various areas and provide the forum for countries to agree on conservation and management decisions, often including fishing allocations. They also adopt, implement and enforce measures to combat illegal, unreported and unregulated fishing.

RFMOs operate in the Atlantic, Southern, Indian and Pacific Oceans and often consist of the coastal States of a region, as well as other countries with fishing interests in the areas under the aegis of the RFMO. Their meetings are usually open to representatives of the fishing industry, as well as non-governmental organizations, including environmental groups.

For example, in the north-east Atlantic, covering the waters from the south of Greenland up to the North Pole, the core membership of the North East Atlantic Fisheries Commission is made up of Denmark, Iceland, Norway, Russian Federation and the European Union (representing 27 countries). Belize, Canada, Cook Islands, Japan and New Zealand have applied for fishing rights in the region, and are cooperating non-members of the organization.

RFMOs are international organizations in their own right, created by treaties, and can be established to meet emerging needs. For example, in the South Pacific, Australia, Chile, and New Zealand recently negotiated with 17 other countries to form the South Pacific Regional Fisheries Management Organisation (SPRFMO). Once the legal steps necessary for its establishment have been completed, the organisation will manage straddling species, such as jack mackerel, and discrete high seas stocks of species such as orange roughy, in an area that stretches from the most eastern part of the South Indian Ocean through

the Pacific Ocean beyond areas of national jurisdiction of States in South America.

A number of organizations have incorporated provisions of the Agreement into their mandates, including one of the central tenets of the Agreement—the precautionary approach—which provides that lack of scientific certainty is no reason to postpone action to take conservation and management measures for the fish stocks involved.

“The Fish Stocks Agreement,” says Vladimir Shibarov, Executive Secretary of the Northwest Atlantic Fisheries Organization (NAFO), “introduced the precautionary approach and strengthened the ecosystem components originally laid out in the UN Convention on the Law of the Sea.” He said the organization adopted the approach in 2003.

According to Robin Allen, interim Executive Secretary of the nascent SPRFMO, the new treaty is also deeply rooted in the 1995 Fish Stocks Agreement, making 19 specific references to key principles in the Agreement. These include the use of the precautionary approach, the rights and obligations of members, the rights and obligations of coastal states, and management practices.

Assessing the health of the fish stocks

Most RFMOs hold an annual meeting where key decisions are made concerning the state of fish stocks, based on scientific assessments. These assessments are sometimes conducted by in-house scientists or other scientific bodies, while others depend on national scientists.

While it is difficult to precisely measure the number of fish in the ocean, scientists rely on a number of indicators, such as catch rates and the age of fish that are caught, to create models that provide an indication of the state of the fisheries. Quotas, or allocations, are made on the basis of these scientific assessments.

“NEAFC manages one of the largest herring stock of the world. The scientific advice estimates the spawning stock biomass in 2009 is around 13 million tons. NEAFC has agreed that only 10-11 per cent of that biomass should be fished every year. This strategy has kept the stock at a high level in recent years,” says Kjartan Hoydal, Secretary of the North East Atlantic Fisheries Commission (NEAFC). “We then establish measures on how we control and enforce them.”

The scientific assessments also provide information on the health of various ecosystems and can recommend a range of measures that can include moratoria on fishing in certain areas, or at certain times.

“In the debates over which measures to adopt, including allocation arguments, social and economic issues often come into play,” explains the Deputy Director of the Inter-American Tropical Tuna Commission (IATTC), Brian Hallman. “When addressing conservation and management measures, the members consider the scientific advice, determine the amount that can be caught for each stock, and then decide on the best measures to ensure that catch limits are not exceeded. But certainly, social and economic considerations are also factors in the discussion.”

Many environmental non-governmental organizations stress that RFMOs have no obligation to adhere to the scientific assessments. Some contend that the organizations are not up to the job of managing the fisheries, that the allocations agreed upon by governments often far exceed sustainable fishing limits, and that too little is being done to conserve marine ecosystems.

Enforcement

One of the most critical issues in managing fishing on the high seas concerns enforcement, an issue that many countries believe involves the exercise of State sovereignty. RFMOs have developed enforcement mechanisms that are consistent with the Fish Stocks Agreement, but debates on these issues continue.

Enforcement is aimed at ensuring that the fishing fleets from members of an RFMO comply with the conservation and management measures that have been adopted. Steps are also taken to counter illegal, unreported and unregulated fishing.

In the north Atlantic, on-board inspections of vessels are allowed and NEAFC and NAFO mandate that all vessels carry a satellite-tracked transponder for what is known as a vessel monitoring system, or "VMS". In the eastern Pacific, tuna fishing vessels must carry an observer and a transponder.

"Continuing efforts to get good compliance mechanisms are underway" says the IATTC's Hallman. "One of our important management tools is an observer programme, for which IATTC has 100 per cent coverage for all large purse seine vessels. IATTC has also closed fisheries during certain seasons or in certain areas." He adds that compliance is checked through the observers to ensure that there are no boats in a closed area.

Hallman says success in compliance should not be measured by the number of violations or enforcement actions, but rather according to compliance levels, adding that "it is important that fishermen from all participating countries have confidence that the measures are being followed by all others. In this regard, a transparent international component to the compliance programme can be valuable."

In the north-west Atlantic, NAFO reports that the level of at-sea inspections has remained about the same, even as fishing has drastically declined. The rate of citations has declined since 2005, and in 2009 only 3 per cent of inspections resulted in citations.

Boarding and inspection, where employed, has only been used to inspect vessels from countries that belong to the RFMO. But other means have been used to discourage fishing by vessels from countries that do not have fishing allocations in the region. "While non-contracting parties are not bound to allow boarding, they often make an arrangement with the RFMO concerned," says Hoydal from NEAFC.

One potent measure to dissuade vessels that do not have privileges to fish in an area is through "blacklisting." Hoydal says "blacklisting vessels denies them entrance to member's ports. This has effectively reduced the number of non-contracting fishing vessels [in the area of the north-east Atlantic regulated by NEAFC] from 26 to 2."

But Hallman says that illegal fishing has been difficult to combat and that the number of vessels has not gone down significantly. When vessels are put on the blacklist, they tend to stay on the list, he says, even after they have stopped fishing in the area regulated by IATTC.

Port State measures also tighten controls by requiring foreign vessels to comply with the rules of a country whose port is accessed, and may include restrictions on landing and transshipment of fish. Documentation requirements, port inspections, blacklists of vessels, trade-related measures, and sanctions can all be effective enforcement tools. Many of these measures have been incorporated into international instruments in recent years.

Another important concern for RFMOs has been coordination with coastal States and other organizations. “Different regions and treaty organizations have to develop compatible relationships,” says Hallman from the IATTC. “Bluefin and albacore tuna migrate across the entire Pacific Ocean. Bluefin spawn in Japan, and during their life cycle migrate to the eastern Pacific, by California and Mexico, and then migrate back to the western Pacific. Effective conservation and management measures for Pacific bluefin must be coordinated by the countries and the two RFMOs involved.”

“This is critical for the Chilean Jack mackerel fishery, both within and outside the Exclusive Economic Zone,” says Allen. “One fish stock swims in and another out, so it is important that management outside the Exclusive Economic Zone be compatible with that inside.”

Ecosystem management

While balancing conservation and economics is the name of the game for fisheries, industry also has a stake in maintaining equilibrium. “Major fishing companies have expensive vessels and support the precautionary principle because they look at longer term, rights-based management,” says Hoydal. However, he continues, “smaller fisheries have a harder time seeing it that way.”

NAFO has recently closed a total of 18 areas, including seamounts and coral and sponge concentrations, to bottom fishing in the north-west Atlantic and encounter protocols have been put in place to oblige fishing vessels to report incidences of corals and sponges and then move their fishing activities away from that area. A number of interim measures have been adopted by SPRFMO to protect vulnerable underwater ecosystems in the South Pacific, including a ban on expanding fishing areas, until a full assessment is completed.

NAFO presently manages 20 fish stocks, eight of which are under moratoria and twelve which are exploited. Last year, it reopened a directed fishery for two stocks that had been under moratoria for 10 years, cod and redfish.

Does the Agreement need further strengthening? According to Hallman, “It’s pretty good.” But he does comment that while greater participation in the Agreement has been discussed by the Parties, some non-member countries may have concerns with some of its provisions.

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