

Sustainable Fisheries and the 1982 UN Convention on the Law of the Sea

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Liza Gall and Michael Shewchuk

Introduction

- General character of the UN Convention on the Law of the Sea (UNCLOS):
 - Delicate balancing of rights and interests
 - Interrelated, integral package
 - Rights and obligations go hand-in-hand



Sustainable fisheries – the EEZ

- Legal framework provided in Part V of UNCLOS
- Sovereign rights of coastal States
- Right of other States to access any surplus
- Obligation of coastal States to conserve and manage living marine resources
 - Based on the best scientific evidence available
 - Determination of the allowable catch
 - Optimum utilization

Sustainable fisheries – the high seas

- Legal framework provided in Part VII, Section 2 of UNCLOS
- Qualified freedom of fishing on the high seas
- Obligation on States to cooperate in the conservation and management of living resources of the high seas
- Obligation on States to conserve living resources on the high seas

Chapter 17 of Agenda 21 of the 1992 United Nations Conference on Environment and Development (UNCED)

- Lack of sufficient cooperation between States;
- Inadequate management of high seas fisheries;
- Over-capitalization in the fishing industry, excessive fleet size;
- Overexploitation of the resources, problems of unregulated fishing;
- Vessel reflagging to escape controls;
- Insufficiently selective fishing gear; and
- Unreliable databases.

The 1995 UN Fish Stocks Agreement

- Provides a detailed regime for the conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas areas through implementation, development and elaboration of provisions in UNCLOS (articles 63, para.2 and 64, and Part VII, Section 2).



Basic Provisions of the UN Fish Stocks Agreement

- Article 5 conservation and management principles:
 - Duty to cooperate
 - Promote the objective of optimum utilization
 - Measures based on the best scientific evidence available
 - Precautionary and ecosystem approaches
 - Protection of marine biodiversity
- Compatibility of measures (article 7)
- Strengthening of RFMOs
- Cooperative enforcement schemes
- Special requirements of developing States

Other international instruments providing for sustainable fisheries

- 1993 FAO Compliance Agreement
- 1995 FAO Code of Conduct for Responsible Fisheries
- FAO International Plans of Action:
 - Management of Fishing Capacity
 - IUU Fishing
- Reykjavik Declaration on Responsible Fisheries

Actions of the General Assembly to provide for sustainable fisheries

- Resolution 46/215 on a global moratorium on large-scale pelagic drift-net fishing
- Resolution 49/116 on unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources
- Resolution 49/118 on fisheries by-catch and discards and their impact on the sustainable use of living marine resources
- Resolution 50/25 which consolidated all fisheries issues
- General Assembly annual resolutions
- Informal Consultations of States Parties to the UN Fish Stocks Agreement

Sustainable fisheries - current challenges and developments

- Bottom fisheries
- Flag State control and illegal, unreported and unregulated (IUU) fishing
- Port State measures

Bottom fisheries

- Concerns regarding the impacts of fishing on vulnerable marine ecosystems
- GA resolution 59/25
- GA resolution 61/105
- Developments since the adoption of resolution 61/105
 - Interim measures adopted
 - Measures adopted by RFMOs
 - Development of technical guidelines by FAO

Flag State control and illegal, unreported & unregulated (IUU) fishing

Recent developments:

- Cooperation between RFMOs regarding vessel lists
- Possible assessment of flag State performance
- Further collaboration between FAO and IMO – 2nd Session of the Joint Ad Hoc Working Group on IUU fishing and related matters

Port State measures

- Measures adopted by RFMOs
- FAO process to develop a global legally binding instrument on port State measures
 - Expert consultations held in September 2007. Technical consultations to be held in June 2008.
 - Aim is to present draft instrument to COFI in 2009

Conclusions

1. Since the adoption of UNCLOS, a number of international instruments have been adopted to provide for sustainable fisheries.
2. Despite these instruments and the activities of a international organizations, including the General Assembly, threats to sustainable fisheries continue, in particular overfishing, IUU fishing and destructive fishing practices.
3. Achieving sustainable fisheries by 2015.

Conclusions

4. Achieving sustainable fisheries involves:
 - Ratification of international instruments
 - Effective implementation of relevant instruments by States/RFMOs
 - Implementing modern fisheries management tools
 - Minimizing the impact of fishing activities on the marine ecosystem
 - Strengthening of RFMOs