



CCSBT-EC/0510/14

11. Review of Regional Fisheries Management Organisations (RFMO)

Purpose

To discuss a CCSBT position on the effectiveness of RFMOs to present in forums considering this matter.

Background

At the 26th Session of the Committee on Fisheries (COFI) there was a general consensus that there should be a review of the effectiveness of RFMOs. The precise process for this was not settled but it was agreed that the process should be shaped by consultations among RFMOs and then fed back to COFI.

COFI agreed to encourage RFMO members to participate in the development of parameters for a review possibly through an urgent expert consultation followed by a technical consultation.

COFI also supported a proposal from Japan to convene a joint meeting of the Secretariats of the tuna RFMOs in Japan in January/February 2007. The objectives of this meeting have been broadly stated as:

- a. review current management measures, addressing fishing capacity and limitation of fishing effort, inspection and control schemes, transshipment measures, non-discriminatory internationally agreed trade sanction processes and procedures, marketing and incidental catch related measures.
- b. review the effectiveness of current RFMO systems and develop processes so as to make available to each other the information contained in their authorised fishing vessel records and IUU fishing vessel lists as well as other pertinent information to prevent IUU fishing activities.

In May 2006 the United Nations will be holding a review Conference of the United Nations Fish Stocks Agreement. This review will include consideration of the extent to which the provisions of the Agreement have been taken into account in measures adopted by subregional or regional agreements or arrangements to conserve and manage straddling fish stocks.

At the recent Conference on the Governance of High Seas Fisheries and the UN Fish Agreement – Moving from Words to Action in St Johns Canada, attending Ministers agreed to a series of actions involving enhancing the roles of RFMOs and strengthening their management and conservation measures. A copy of the Ministerial Statement is at Attachment A.

In summary, 2006 and 2007 will see a wide range of international activity associated with reviewing the performance of RFMOs and development of measures to strengthen RFMO capacity to manage and conserve fish stocks.

Discussion

CCSBT12 is the last opportunity for the Extended Commission to consider in session a CCSBT approach /view on this matter before international activity commences in 2006.

Three general issues may be considered:

- Does the Extended Commission have a CCSBT position or is this the prerogative of individual members.
- If there is a CCSBT position, would the Secretariat, as the representative of the CCSBT, have a role in presenting this position at international forums.
- Does the Extended Commission want the Secretariat to make input to international review forums from the perspective of its experience in administering CCSBT management and conservation measures.

These are all matters for the Extended Commission to decide. However, the Executive Secretary provides the following advice as input to the deliberations of the Extended Commission.

Managing a fishery is an on going operational task. The weakness of the RFMO structure in terms of effectiveness is that they generally exercise only limited on-going operational control over a fishery unlike that of domestic fisheries managed by their members. They can be significantly dependent on member willingness or ability to provide information or implement decisions. Enforcement/compliance is attenuated by RFMO members retaining sovereign control over the fishing activities of their fleets. Individual RFMOs are also limited by decisions/measures only having application to member countries.

In this context and accepting the reality of sovereignty issues, improvements in RFMO performance could be contemplated in a number of areas:

Decision Making

Most RFMOs only meet annually to take decisions. This means decision making is focussed on broad policy/structural/management matters. It also leaves a long decision making vacuum between annual meetings, while at the same time the fishery is on-going. Solutions in this area might include;

- More regular meetings with operational agendas
- Delegation of some decision making to Secretariats within prescribed boundaries
- Intersessional decision making arrangements.

A difficulty of more active decision making by RFMOs is the limited capacity of some members to increase the level of their commitment.

Scope

Decisions of a particular RFMO have application only in member countries and this is a well recognised limitation. The effectiveness of management and conservation measures can be eroded and circumvented when activity associated with the fishery extends beyond the RFMOs membership. Solutions to this problem might include:

- RFMOs taking simultaneous decisions to recognise the management and conservation measures of each other. This would be a de facto measure to extend coverage of a particular RFMO. Currently, the conventions/treaties establishing RFMOs require them to cooperate but currently the level of active cooperation is very limited. The CCSBT makes little information available to other tuna RFMOs that is not in the public domain, for example.
- Adoption of universal instruments by all RFMOs. For example, there could be one trade document for all tuna RFMOs, which would be managed in an identical way by all tuna RFMOs and member countries with one RFMO acting as a coordinating body. Another example would be a universal vessel register with particular subsets for each RFMO and a unique vessel identifier. These are not intrinsically difficult measures to develop but implementation would be highly dependent on member cooperation.

Secretariat Functions

RFMOs tend to have very little operational substance with functionality of secretariats mostly associated with secretarial support to their governing bodies. When these governing bodies only meet once a year to take decisions, fishery management can become quite attenuated. Any actual management of the fishery is undertaken by members acting within the broad decisions of the Commission but implementing them unilaterally. In this context RFMOs management of a fishery can gravitate to the lowest common denominator.

A solution, which would give operational substance to an RFMO's fishery management, would be to have secretariats made responsible for the operation of RFMO's management activities. For example, if an RFMO adopted a VMS system, the secretariat would maintain the system and report to members on whatever basis was agreed by the RFMO. Other examples might be catch monitoring arrangements, or observer programs.

For consideration.

Prepared by the Secretariat

Attachment A

Conference on the Governance of High Seas Fisheries and the UN Fish Agreement – Moving from Words to Action

St. John's, Newfoundland and Labrador, Canada
May 1-5, 2005

We, the Ministers at the St. John's Conference on the Governance of High Seas Fisheries and the UN Fish Agreement (UNFA):

Recognizing the need to ensure the long-term conservation and sustainable use of fish stocks through the effective implementation of the obligations of States in this respect;

Acknowledging that the sustainable use of fish stocks is a significant and replenishable source of healthy food for large parts of the world's population, and that continued sustainable use provides for increased food security on a global basis;

Expressing concern that in many parts of the world certain fish stocks are overfished;

Expressing concern with the significant adverse impacts that such overfishing has had on the state of fisheries resources and their ecosystems, and on the economies of States and coastal communities around the world that depend on these resources for their livelihood;

Reiterating our commitment to responsible fisheries;

Recognizing that all States have the right for their nationals to engage in fishing on the high seas subject to their treaty obligations, to the rights, duties and interests of coastal States, inter alia in the conservation and management of straddling fish stocks and highly migratory fish stocks, to the duty of States to cooperate with each other in their conservation and management, as well as the duty of States to control the activities of vessels flying their flag, in accordance with UNCLOS¹ and UNFA²;

Recognizing the need for conservation and management measures for straddling fish stocks and highly migratory fish stocks adopted for the high seas and those adopted for areas under national jurisdiction to be compatible, and the obligation of States fishing on the high seas and coastal States to cooperate to this end;

Recognizing that sub-regional and regional fisheries management organizations and arrangements (RFMO/As) have played a significant role with regard to the governance of high seas fisheries and are the most effective means of cooperating in the conservation and management of high seas fish stocks and that good governance and management by these RFMO/As contribute to ensuring the effective long-term conservation and sustainable use of high seas fish stocks, including curbing overfishing;

Recognizing that RFMO/As today face new challenges and responsibilities, and while the governance of some RFMO/As has been improved by incorporating the principles and provisions of newly developed international instruments and tools, including, inter alia, those related to ecosystem considerations in fisheries management, other RFMO/As remain to be so improved and, to that end, there is a need for political will

to further strengthen and modernize RFMO/As to ensure that such challenges and responsibilities are effectively addressed;

Reaffirming the importance of universal compliance with the existing international legal framework for the governance of high seas fisheries;

Acknowledging the need to ensure that there is a genuine link between flag States and their vessels and that the responsibilities deriving therefrom are fulfilled;

Reaffirming our commitment to the implementation of the relevant parts of Agenda 21 and to the Johannesburg Plan of Implementation agreed at the World Summit on Sustainable Development in 2002 in relation to achieving sustainable fisheries;

Commending the results of the March 2005 COFI Meeting, as well as the 2005 Rome Ministerial Declaration on Illegal, Unreported and Unregulated (IUU) fishing where the desire was expressed "to move from words to action through full implementation of various international instruments for sustainable fisheries adopted or enacted in the past decades";

Acknowledging the ongoing work of the High Seas Task Force in the area of IUU Fishing,

We declare that we will move from words to the following actions:

1. We urge all States that have not already done so, to become parties to UNCLOS, UNFA and the FAO Compliance Agreement³, and call on States and entities to effectively implement all provisions of these international agreements directly and within each RFMO/A of which they are a member.
2. Ministers representing States or Regional Economic Integration Organizations (REIOs) that are parties to UNFA commit to writing to Non-parties urging them to become party to UNFA at the earliest opportunity.
3. We will implement in a timely fashion the Johannesburg Plan of Implementation agreed at the World Summit on Sustainable Development in 2002 in relation to achieving sustainable fisheries
4. We will work within RFMO/As of which the State or REIO we respectively represent is a member, to review and strengthen them, where necessary, in a manner that does not overlap or duplicate the mandate of other existing RFMO/As, to:
 - A. Implement a decision-making process which:
 - i) relies on the best scientific information available;
 - ii) incorporates the precautionary approach;
 - iii) incorporates ecosystem considerations in fisheries management with due consideration to the work of relevant scientific bodies and initiatives;
 - iv) uses criteria for allocations which properly reflect the interests and needs of coastal States and developing States, including small island developing States, in whose areas of national jurisdiction the fish stocks also occur, as well as those of fishing States; and,

v) achieves compatibility between conservation and management measures established for the high seas and those established for areas under national jurisdiction;

B. Ensure that the decision-making processes of these RFMO/As support the conservation and sustainable use of fish stocks they manage by:

i) strengthening or developing dispute settlement procedures to provide for the review of fisheries conservation and management decisions and of behavior following opting out of such decisions that may undermine conservation and management of the fish stocks concerned;

ii) strengthening or developing procedures for the settlement of disputes in accordance with UNCLOS and UNFA;

C. Establish or strengthen the monitoring, control and surveillance (MCS) regimes of RFMO/As including as needed joint MCS systems, the dissemination of collected data as may be agreed and regular compliance review mechanisms, ensuring that the costs of MCS systems are shared in a fair and transparent manner;

D. Establish regional guidelines for States to use in establishing sanctions for non-compliance by their flag vessels and nationals that are adequate in severity to effectively secure compliance, deter further violations and deprive offenders of the benefits accruing from their illegal activities.

5. We agree that in order to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources:

A. Where a RFMO/A has established a total allowable catch (TAC) and allocations, members should ensure that their fishing effort does not result in catches that exceed their fishing possibilities;

B. Where a RFMO/A has established an overall TAC, but has not yet set allocations, members and the RFMO/A should monitor catches and fishing effort to ensure that the TAC is not exceeded;

C. Where the scientific advice regarding an unregulated stock indicates that conservation and management measures are necessary, RFMO/A members should, as a matter of priority, agree on appropriate measures and, in the interim, exercise restraint with regard to their fishing effort for that stock in accordance with the precautionary approach;

D. States, REIOs and entities, individually and through RFMO/As of which they are a member, should cap and then reduce excess fishing capacity to be commensurate with the status of fish stocks;

E. States, REIOs and entities should avoid the transfer of fishing capacity to other fisheries or areas including, but not limited to those areas where fish stocks are overexploited or in a depleted condition.

6. We will work together, including within RFMO/As of which the State or REIO we respectively represent is a member, to implement measures to further mitigate by-catch, particularly of vulnerable non-target marine species such as seabirds as well as sea turtles and to adopt measures to conserve and manage shark stocks in directed and non-directed fisheries and to minimize waste and discards, in accordance with the FAO Guidelines and International Plans of Action for these species.

7. We will work together, including within RFMO/As of which the State or REIO we respectively represent is a member, to ensure that States that fish on the high seas do not engage in unsustainable fishing practices, including those that adversely affect coastal developing States.

8. We call upon States to cooperate in establishing new RFMO/As or arrangements, where necessary, with sufficiently comprehensive mandates, to facilitate cooperation in respect of fish stocks or areas of the high seas not currently managed by any RFMO/As taking due account of the commitments made in this Declaration.

9. We call upon all States and entities fishing in areas of competence of RFMO/As but that are not a member of those RFMO/As to immediately join or agree to apply the conservation and management measures established by such RFMO/As in accordance with UNCLOS and UNFA. Efforts need also be made to allow developing States to achieve legitimate development goals pertaining to poverty alleviation and improvement of the lives of fishermen.

10. We recognize that States, REIOs or entities that are neither members of RFMO/As nor have agreed to apply their conservation and management measures shall not have access to the fisheries resources to which those measures apply and any catches of such fishery resources should be denied market access in accordance with international law.

11. We urge all States Parties and other States to work together to prepare for the UNFA Review Conference to be held in May 2006 in accordance with Article 36 of the Agreement, which will inter alia assess the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks, including but not limited to the functions of RFMO/As as defined in Article 10 of UNFA.

12. We will follow up on commitments made at the FAO 2005 Rome Ministerial Declaration on IUU Fishing and will work within RFMO/As to establish or strengthen measures to prevent, deter and eliminate IUU fishing and other fishing activities by States, REIOs or entities that undermine the effectiveness of the conservation and management measures of the RFMO/As.

13. We will work to address possible gaps which may include those related to:

A. the sustainable management of discrete high seas fisheries (including deep sea fisheries),

B. the conservation and sustainable use of marine biodiversity and sensitive marine ecosystems,

C. defining the genuine link between flag states and the fishing vessels flying their flag,

D. the obligations of port States and the development and implementation of stronger port state measures in accordance with international law,

and that further steps should be taken in this direction.

14. We recognize the need to assist developing States in implementing relevant agreements, instruments and tools for the conservation and management of fish stocks, including through existing funds such as the UNFA Part VII Developing States Fund.

15. We will actively seek the cooperation of other States to join us in achieving our objectives set out in this Declaration.

16. We agree that officials identify practical ways to move forward on the commitments of Ministers as set out in this Declaration.