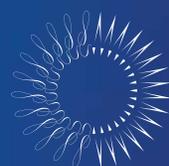


Finding Sustainability

Recommendations to the
U.N. Fish Stocks Review Conference



THE
PEW
ENVIRONMENT GROUP

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ABOUT THE PEW ENVIRONMENT GROUP

The Pew Environment Group is the conservation arm of The Pew Charitable Trusts, a non-governmental organization that applies a rigorous, analytical approach to improving public policy, informing the public and stimulating civic life. www.Pewenvironment.org

Executive Summary

This session of the United Nations Fish Stocks Agreement (UNFSA) Review Conference should take strong and meaningful action to improve the functioning and accountability of regional fisheries management organizations (RFMOs) in order to ensure the sustainable management of high seas fisheries. Therefore, the Pew Environment Group calls upon the UNFSA Review Conference to take the necessary steps to bring about sustainable high seas fisheries by strengthening the current high seas governance system, including through improving RFMO performance and accountability, and enhancing international coordination and oversight through the United Nations.

Specifically, we recommend that the Review Conference call on States to:

- 2.1 Ratify the UNFSA
- 2.2 Codify regular RFMO performance reviews
- 2.3 Adequately fund RFMOs
- 3.1 Address data deficiencies
 - 3.1.1 Adopt “No Data – No Fishing” policy
- 3.2 Adopt Appropriate Conservation and Management Measures
 - 3.2.1 Amend RFMO conventions to be consistent with relevant provisions of the UNFSA
 - 3.2.2 Implement the precautionary approach
 - 3.2.3 Conduct environmental impact assessments prior to fishing
 - 3.2.4 Follow scientific advice
 - 3.2.5 Transparently assess and equitably reduce excess fishing capacity
 - 3.2.6 Prohibit the retention of species at risk, especially sharks
 - 3.2.7 Assess and reduce bycatch
 - 3.2.8 Implement marine protected areas and time-area closures
- 3.3 Comply with adopted measures
 - 3.3.1 Join and support the International Monitoring, Control and Surveillance Network
 - 3.3.2 Implement the Port States Measures Agreement
 - 3.3.3 Impose sanctions on Parties

1 Overview

Despite efforts by the 18 regional fisheries management organizations (RFMOs) and individual governments to manage fisheries since the last session of the U.N. Fish Stocks Agreement (UNFSA) Review Conference in 2006, the vast majority of stocks managed by RFMOs are still either overexploited or depleted. A 2010 peer-reviewed evaluation of RFMO performance determined that two-thirds of stocks fished on the high seas and under RFMO management are either depleted or over-exploited.¹ Similarly,

according to the U.N. Food and Agriculture Organization (FAO), “In the case of straddling stocks and of other high seas fishery resources, nearly two-thirds of the stocks for which the state of exploitation can be determined were classified as overexploited or depleted.”²

These data confirm that RFMOs are failing to sustainably manage the high seas fisheries for which they are responsible and for which they should be accountable.

2 Progress Since the 2006 Review Conference

During the first Review Conference, Parties agreed on a number of recommendations that RFMOs and States should pursue in order to more effectively secure the conservation and management of high seas fisheries. The 2006 Review Conference made more than 35 recommendations to States and RFMOs, including adopting conservation and management measures consistent with the best available scientific information and the precautionary approach; reducing fishing capacity to levels commensurate with resource availability; urging RFMOs to undergo independent performance reviews; and incorporating ecosystem considerations into fisheries management.³

It is incumbent upon States that are Party to the UNFSA to fully act on the 2006 recommendations and take additional concrete steps to avert the over-exploitation of stocks

on the high seas. Otherwise, they will face a future in which mismanagement compounds the already dire state of high seas stocks and results in fishery closures and ecosystem failures.

2.1 All States fishing for high seas or straddling fish stocks should ratify the UNFSA

Several RFMO member States and cooperating non-member States have not ratified the UNFSA and thus are not bound by terms of the Agreement or committed to the 2006 Review Conference recommendations. In fact, more than half of the members of the high seas RFMOs⁴ have not ratified the UNFSA (see Table 1). Additionally, IUU (illegal, unreported and unregulated) fishing by non-Parties detrimentally impacts the future sustainability of high seas fisheries and undermines any progress on implementation of the 2006 recommendations. Although the UNFSA language is very strong

from the perspective of long-term sustainability, this objective can only be realized if all high seas fishing States and interested coastal States ratify and effectively implement the provisions of the UNFSA. For this reason, all States fishing for high seas fish stocks should ratify the UNFSA.

2.2 Codify regular, independent RFMO performance reviews

The 2006 Review Conference recommended that RFMOs “undergo performance reviews on an urgent basis,” to encourage the inclusion of some element of independent evaluation in such reviews and ensure that the results are made publicly available. This call was reinforced by the 2006 U.N. General Assembly Resolution on Sustainable Fisheries (61/105) and by the FAO Committee on Fisheries in 2007. The five tuna RFMOs have since agreed to a set of criteria on which they should be evaluated.

Performance reviews conducted thus far have varied considerably in terms of the process, resulting recommendations and follow-up actions. Because of this, future performance reviews should be conducted entirely by independent external experts and should follow consistent and agreed-upon criteria.

The General Assembly, through its Sustainable Fisheries Resolution, should establish an independent expert working group to develop and agree on a common set of criteria for evaluating RFMO performance that would apply to all RFMOs, assess performance reviews annually, and report on each RFMO’s progress in implementing the recommendations. In addition, through the UN Sustainable Fisheries Resolution, all RFMOs should be requested to regularly conduct independent performance reviews (perhaps every three years) and follow up on any recommendations resulting from such reviews



Photo: Keith Ellenbogen/Oceana

within two years of their conclusion or the fisheries that they are required to manage should be closed.

2.3 Adequately fund RFMOs

RFMO Secretariats generally lack the human and financial resources required to carry out their work, including those tasks recommended by the 2006 Review Conference. RFMO members generally resist budget increases and dismiss activities that would increase financial commitments. Given the lack of action on the 2006 recommendations, many of the challenges that those recommendations attempted to address have since been exacerbated. States must therefore be willing to invest in the RFMOs to which they are Party and enable the Secretariats to undertake their ever-increasing workload. Fishing States benefit by having access to the stocks, therefore, they should be expected to pay the costs associated with managing them. Although this would constitute a major shift for many States, the ability of Parties to the UNFSA to meet their obligations under this Agreement would be severely compromised unless there was clear recognition of the need to invest in the future sustainability of high seas fisheries.

Overcoming Consistent Challenges:

3 Data, Measures and Compliance

Although only five RFMOs lived up to their internationally recognized responsibility to conduct performance reviews, it was enough to illuminate the consistent challenges that RFMOs face. In general, these challenges fall into three broad categories:

1. Poor data provision.
2. Failure to adopt appropriate conservation and management measures.
3. Inadequate compliance with adopted measures.

These three interconnected categories outline the basic functions of RFMOs. States and independent scientific bodies must provide RFMOs with timely and accurate data to inform stock assessments. The stock assessments, in turn, must inform the adoption of appropriate conservation and management measures. Once measures are adopted, their success depends on the willingness and ability of fishing, coastal, and

port States to enforce them. All three challenges must be dealt with if RFMOs are going to secure the sustainability of high seas fisheries and States are to meet their obligations under the UNFSA.

3.1 Address Data Deficiencies

The RFMO performance reviews indicated that provision of data was consistently unreliable, inaccurate and not provided within the required time frame, contrary to Article 5(j) of the UNFSA.⁵ Resulting stock assessments often had incomplete and incorrect data, further compounding the challenges RFMOs face in sustainably managing fisheries.

3.1.1 'No Data—No Fishing' policy

Unreported fishing is the first “U” in “IUU” and should be treated as such. RFMOs should adopt “No Data—No Fishing” in response to insufficient information about the state of target or associated and dependent species, no fishing should be allowed. In addition, any member State that failed to provide information on its fishing activities should be prohibited from fishing. RFMOs should develop binding management measures that would permit data to be collected but protect the ecosystem from damage while such information was collected.

3.2 Adopt appropriate conservation and management measures

To conserve and manage straddling and highly migratory fish stocks, Article 5 of the UNFSA requires States to adopt measures based on the best scientific evidence available, apply the



Photo: NOAA

“As noted in the ICCAT Performance Review: “There are ... no excuses for developed countries to not provide reliable data to the Commission in a timely fashion so that it can be used to produce accurate stocks assessments and evaluate the effects of fisheries management measures. Yet, many developed countries do not submit data in a timely manner.”

precautionary approach and prevent or eliminate overfishing and excess fishing capacity, and control fishing effort. No RFMO addresses all of these requirements. Constructive discussions at the resumed Review Conference should produce creative and pragmatic solutions so that all RFMOs can adhere to every element of Article 5. We believe this requires the following:

3.2.1 Amend RFMO conventions.

RFMO conventions should be amended so that they adhere to the relevant provisions of the UNFSA.

3.2.2 Implement the precautionary approach

RFMOs should fully implement the precautionary approach by requiring scientific advice to include “limit” and “target” reference points for all species, including non-target species and especially shark species. When this advice is not available, no fishing should take place.

3.2.3 Conduct environmental impact assessments prior to fishing

RFMOs should require an environmental impact assessment (EIA) to be completed before allowing fishing to take place on a stock. Such assessments must take account of the potential impacts of the fishery on target, associated and dependent species, assess impacts on habitat and vulnerable marine ecosystems, and meet

criteria set by the RFMO’s Scientific Committee. Where no prior EIA has been conducted, the RFMO should not allow fishing to take place.

3.2.4 Follow scientific advice

Measures adopted by RFMOs should follow scientific advice (with at least an 80 percent probability of achieving the RFMO’s objective). In the absence of such advice, fishing on target and associated and dependent species should be suspended. For stocks that are either being overfished or which have been overfished, measures should be designed and immediately implemented to reduce fishing pressure and rebuild stocks as soon as practicable.

3.2.5 Transparently assess and equitably reduce excess fishing capacity

Fishing effort and capacity must be reduced to levels commensurate with the long-term sustainability of stocks. Accordingly, fishing capacity should be transparently evaluated and reduced equitably in each RFMO.

3.2.6 Prohibit the retention of species at risk, especially sharks

Where no conservation and management plan is in place, no retention should be allowed for species, including target species and bycatch, such as sharks. Additionally, RFMOs should agree to prohibit retention of any species listed



Photo: Terry Goss/SeaWeb/Marine Photobank

in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora⁶ or on the International Union for Conservation of Nature's Red List of Threatened Species⁷ as Critically Endangered, Endangered or Vulnerable.

3.2.7 Assess and reduce bycatch

RFMOs should immediately assess and implement measures to reduce the incidental mortality of non-target and associated species such as sharks, seabirds, sea turtles, marine mammals and juveniles of target species. For bycatch species subject to commercial trade (e.g., sharks), efforts should be made both to mitigate the bycatch and implement management measures.

3.2.8 Implement marine protected areas and time-area closures

RFMOs should adopt and implement marine protected areas and time-area closures for

fisheries management purposes in accordance with the best available scientific advice to protect and conserve ecologically or biologically significant areas, including vulnerable ecosystems and spawning habitats.

3.3 Compliance with adopted measures

Scientifically robust measures are meaningless unless they are properly enforced. Unfortunately, as the RFMO performance reviews indicate, the conservation and management of stocks are routinely undermined by noncompliance. In many cases, RFMOs lack the ability or political will to sanction their members for violations. In others, IUU vessels may not be caught because of weak port State measures, inadequate catch documentation schemes or poor coordination between RFMO members and the numerous RFMO Secretariats that maintain IUU vessel lists. Weak enforcement and compliance simply encourage further noncompliance, decreases legitimate economic rents from the resources,

and threatens the future sustainability of fisheries.

To address these concerns, States fishing on the high seas should apply tools within RFMOs to improve monitoring, control and surveillance; eliminate IUU fishing; and increase accountability.

3.3.1 Join and support the International Monitoring, Control and Surveillance Network

All States should join the International MCS Network to improve the efficiency and effectiveness of fisheries-related MCS activities and should ensure that the network is adequately financed. This would enable the creation of an effective global information-sharing system for IUU vessels and ensure the swift and broad exchange of MCS information.

3.3.2 Implement the Port States Measures Agreement

RFMOs should incorporate the provisions of the FAO Port State Measures Agreement (PSMA)

as a minimum standard and should encourage members to expeditiously sign and ratify the PSMA. In addition, RFMOs and States should work to implement the PSMA provisionally before it enters into force. Specifically, RFMOs should agree to recognize the IUU-vessel lists of all other RFMOs. These lists should provide adequate information for vessel identification, including International Maritime Organization numbers, and be updated regularly (i.e., change of flag or call sign).

3.3.3 Impose sanctions on parties

RFMO members should impose sanctions and penalties on Parties that violate the measures, including prohibition from fishing until they comply. Violations that warrant action include, *inter alia*, failure to provide timely and accurate data as required by the RFMO, misreporting or underreporting required fisheries data, overfishing allocations, not complying with bycatch measures and violating time-area closures.



Photo: NOAA

4 Conclusion

The preamble to UNFSA states a determination “to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks” and calls for “more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks.” It notes “problems of unregulated fishing, overcapitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States.”³ The U.N. Secretary General’s report on progress since the 2006 Review Conference shows that there are increasing adverse impacts on the marine environment and biodiversity from high seas fisheries.⁹

One of the five RFMO performance reviews states, “[R]ather than [the RFMO] failing in its mandate it is [the RFMO] that has been failed by

its members.”¹⁰ It is indeed the RFMO member States and fishing entities that actively exploit the marine resources; provide data to RFMOs; agree on total allowable catches, quotas, conservation and management measures; and decide on how to enforce those measures. Thus, the performance of every RFMO is only as good as the commitment and political will of the States that are parties to it. The responsibility for continued high seas overfishing, overcapacity and destruction of the marine environment lies equally with those member States as with the “free riders” who have not joined the RFMOs but continue to exploit the living marine resources of the high seas without due regard for the “long-term conservation and sustainable use” of those resources.

The Participants gathered at the 2010 UNFSA resumed Review Conference have the opportunity to improve the alarming status

PARTIES THAT HAVE RATIFIED THE UNFSA							
COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*
EU	10 (a,b,c,d,e,f,g,h,i,j)	Indonesia	3 (b,f,j)	Barbados	1 (e)	Samoa	1 (j)
Japan	9 (a,b,c,d,e,f,g,h,i)	France	2 (e,g)	Costa Rica	1 (d)	Seychelles	1 (f)
Republic of Korea	7 (a,b,c,e,f,g,j)	Brazil	2 (a,e)	Federated Staes of Micronesia	1 (j)	Solomon Islands	1 (j)
Norway	5 (a,e,g,h,i)	Guinea	2 (e,f)	Fiji	1 (j)	Tonga	1 (j)
United States of America	5 (a,d,e,g,j)	India	2 (a,f)	Iran	1 (f)	Trinidad and Tobago	1 (e)
Canada	5 (a,d,e,g,j)	Mauritius	2 (a,f)	Kenya	1 (f)	Tuvalu	1 (j)
South Africa	5 (a,b,e,f,i)	Panama	2 (d,e)	Marshall Islands	1 (j)	Spain	1 (d)
Australia	4 (a,b,f,j)	Ukraine	2 (a,g)	Nauru	1 (j)	United Kingdom	1 (e)
Russia	4 (a,e,g,h)	Uruguay	2 (a,e)	Nigeria	1 (e)	KEY: a = CCAMLR f = IOTC b = CCSBT g = NAFO c = GFCM h = NEATC d = IATTC i = SEAFO e = ICCAT j = WCPFC	
Iceland	3 (e,g,h)	Denmark	2 (g,h)	Niue	1 (j)		
Namibia	3 (a,e,i)	Cook Islands	2 (d,j)	Oman	1 (f)		
New Zealand	3 (a,b,j)	Kiribati	2 (d,j)	Palau	1 (j)		
Belize	3 (d,e,f)	Senegal	2 (e,j)	Papua New Guinea	1 (j)		

*Based on membership, or cooperating non-membership (or equivalent), of CCAMLR, GFCM, ICCAT, IATTC, CCSBT,IOTC, WCPFC, NAFO, NEAFC and SEAFO. Taiwan, province of China, is not included in analysis.

PARTIES NOT RATIFYING THE UNFSA							
COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*	COUNTRY	TOTAL NUMBER OF RFMOS*
Vanuatu	5 (a,d,e,f,j)	Nicaragua	2 (d,e)	Chile	1 (a)	Malaysia	1 (f)
China	5 (a,d,e,f,j)	Peru	2 (a,d)	Colombia	1 (d)	Mauritania	1 (e)
Philippines	4 (b,e,f,j)	Sierra Leone	2 (e,f)	Comoros	1 (f)	Montenegro	1 (c)
Mexico	3 (d,e,j)	Syria	2 (c,e)	Cuba	1 (g)	Pakistan	1 (f)
Albania	2 (c,e)	Turkey	2 (c,e)	Equatorial Guinea	1 (e)	Sao Tome & Principe	1 (e)
Algeria	2 (c,e)	Venezuela	2 (d,e)	Eritrea	1 (f)	Serbia	1 (c)
Angola	2 (e,i)	Ecuador	2 (d,j)	Gabon	1 (e)	Sri Lanka	1 (f)
Croatia	2 (c,e)	El Salvador	2 (d,j)	Ghana	1 (e)	St Vincent and the Grenadines	1 (d)
Egypt	2 (c,e)	Honduras	2 (d,e)	Israel	1 (a)	Sudan	1 (f)
Guatemala	2 (d,e)	Tunisia	2 (c,e)	Ivory Coast	1 (e)	Tanzania	1 (f)
Libyan Arab Lamahiriya	2 (c,e)	Argentina	1 (a)	Lebanon	1 (c)	Thailand	1 (f)
Morocco	2 (c,e)	Cape Verde	1 (e)	Madagascar	1 (f)		
*Based on membership, or cooperating nonmembership (or equivalent), of CCAMLR, GFCM, ICCAT, IATTC, CCSBT, IOTC, WCPFC, NAFO, NEAFC and SEAFO. Taiwan, province of China, is not included in analysis.						KEY: d = IATTC h = NEAFC a = CCAMLR e = ICCAT i = SEAFO b = CCSBT f = IOTC j = WCPFC c = GFCM g = NAFO	

of high seas fish stocks; however, this will take considerable political will and increased investment in the RFMOs. In many cases, it will require a shift in the traditional approach of States regarding international fisheries management and the freedom to fish on the high seas. The solutions include strengthening the governance system by improving RFMO performance and accountability, and can be achieved only through greater international coordination and oversight by the United Nations.

We hope that the recommendations outlined in this document will serve as a starting point for constructive discussions during the UNFSA Resumed Review Conference and respectfully request that all States seriously consider how they could renew their dedication to the stewardship of the fisheries resources on the high seas for which they are responsible.

Endnotes

- 1 S. Cullis-Suzuki, D. Pauly, "Failing the high seas: A global evaluation of regional fisheries management organizations" (in press), *Marine Policy* (2010), doi:10.1016/j.marpol.2010.03.002.
- 2 FAO, *The state of world fisheries and aquaculture 2008, Rome: Food and Agriculture Organization of the United Nations* (2009), p. 35, <ftp://ftp.fao.org/docrep/fao/011/i0250e/i0250e01.pdf>.
- 3 A/Conf.210/2006/15, Annex: Outcome of the Review Conference. New York, May 26, 2006. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/422/95/PDF/N0642295.pdf?OpenElement>, pp. 31- 43.
- 4 Based on membership in the Convention on the Conservation of Antarctic Marine Living Resources, General Fisheries Commission for the Mediterranean, International Commission for the Conservation of Atlantic Tunas, Inter-American Tropical Tuna Commission, Commission for the Conservation of Southern Bluefin Tuna, Indian Ocean Tuna Commission, Western and Central Pacific Fisheries Commission, Northwest Atlantic Fisheries Organization, North East Atlantic Fisheries Commission and South East Atlantic Fisheries Organization.
- 5 Article 5(j): Coastal States and States fishing on the high seas shall ... "collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes."
- 6 Convention on International Trade in Endangered Species of Wild Fauna and Flora, "The CITES Appendices," www.cites.org/eng/app/index.shtml.
- 7 International Union for Conservation of Nature Red List of Threatened Species, www.iucnredlist.org.
- 8 U.N. General Assembly, "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks," www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm.
- 9 *Oceans and the Law of the Sea in the General Assembly of the United Nations: Reports of the Secretary-General*, www.un.org/Depts/los/general_assembly/general_assembly_reports.htm#Reports on fisheries issues.
- 10 *Report of the Independent Review, International Commission for the Conservation of Atlantic Tunas* (2008), p. 2, www.iccat.int/Documents/Meetings/Docs/Comm/PLE-106-ENG.pdf.



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