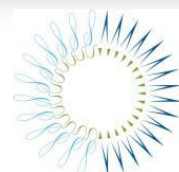


FINDING SUSTAINABILITY

Recommendations to the Twenty-ninth Session of the Committee on Fisheries (COFI) of the Food and Agriculture Organization of the United Nations

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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.

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Cover photos: Left Todd Essick, Right NOAA images Bottom Matt Rand

Executive Summary and Background

Oceans are critical to the health of our planet and all its inhabitants. They cover 71 percent of the Earth's surface, generate most of the oxygen in our atmosphere, detoxify and recycle much of our pollution, and absorb vast quantities of carbon dioxide. More than half the species on Earth live in the sea, and hundreds of millions of people depend directly or indirectly on fish for sustenance or livelihoods. Fishing fleets around the globe, now more than 1.3 million vessels strong, take large amounts of life from the world's oceans, affecting virtually all species that are dependent on the marine environment for their survival. By systematically overfishing targeted species and killing other marine life in large quantities as a result of unintended or unmanaged catch, overfishing is currently throwing complex food webs out of balance in many areas of the oceans and causing other unanticipated consequences.

The Committee on Fisheries (COFI) has the opportunity at this, its Twenty-ninth Session, to enhance precautionary and ecosystem-based approaches to fisheries management and scientifically-based decision making in light of the major challenges and threats to marine biodiversity and ecosystems that the world community is facing today, and as a critical global intergovernmental forum where major international fisheries problems and issues are examined. COFI members have recognized the need to address problems such as illegal, unreported and unregulated (IUU) fishing and overcapacity as well as provide guidelines for conserving valuable populations of sharks and seabirds through International Plans of Action (IPOAs) and for the management of deep-sea fisheries in the high seas. COFI can and must continue to play an important role in influencing and promoting sustainable fisheries management, and thereby help ensure healthy oceans and food security.

Since the last Session of COFI in 2009, there have been efforts by: Regional Fisheries Management Organizations and arrangements (RFMO/As) and individual governments, to manage fisheries sustainably and equitably; discussions and arrangements at the U.N. Fish Stocks Agreement (UNFSA) Resumed Review Conference¹; discussions and an agreed Resolution on Sustainable Fisheries by the U.N. General Assembly²; and discussions and agreed decisions at the meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD).³ However, the vast majority of fish stocks on the high seas, including those managed by RFMOs, continue to be either overexploited or depleted and destructive fishing practices continue. The Food and Agriculture Organization (FAO) wrote, "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."⁴ It is thus clear that far more must be done, as a matter of urgency, by governments, both individually and collectively as members of RFMOs, COFI and indeed the global community, to sustainably manage the global fisheries for which they are responsible and for which they should be accountable.

This brief sets out the Pew Environment Group's recommended actions on items in the Provisional Agenda for the Twenty-ninth Session of COFI. These include recommended actions on the IPOA for sharks, port State measures (PSM) against IUU fishing, the draft guidelines on bycatch and discards, environmental assessments and marine protected areas, the management of deep-sea fisheries in areas beyond national jurisdiction and other issues. We look forward to providing scientific and technical information and working closely with FAO Members to help ensure sustainable, legal fisheries and healthy populations of sharks and other species for the benefit of all.

¹ www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm

² www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm

³ www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf

⁴ FAO, *The state of world fisheries and aquaculture 2008*, Rome: Food and Agriculture Organization of the United Nations (2009), p. 35, <http://ftp.fao.org/docrep/fao/011/i0250e/i0250e01.pdf>

Recommendations

The Pew Environment Group recommends that FAO Members take the actions below. More details are provided in the discussions on specific items on the agenda of the Twenty-ninth Session of COFI.

To help ensure the conservation of shark populations and the effective implementation of the FAO IPOA-Sharks (Agenda item 4), FAO Members should:

- Recommend that sharks should not be retained onboard fishing vessels or fins removed until science-based management plans are developed and in place.
- Recommend that States and RFMOs conduct ecological risk assessment (ERAs) in the absence of stock assessments to inform conservation and management measures.
- Recommend that States and RFMOs that have not yet done so establish and implement species-specific data collection requirements for sharks taken in all fisheries.
- Adopt an ongoing and transparent mechanism to monitor progress of the top 20 shark fishing countries and entities' implementation of the principles of the IPOA-Sharks.
- Direct the FAO Fisheries and Aquaculture Secretariat to undertake a thorough analysis of the implementation of the IPOA-Sharks by the major shark fishing countries and entities. This analysis should evaluate the actions taken to manage shark fisheries, starting with those countries and entities that lack information on management or demonstrate little or no management for shark fisheries and require that the analysis is provided in a publicly available document in advance of COFI 2013.

To further ensure the effective implementation of the FAO Code of Conduct for Responsible Fisheries, and the conservation of sharks and other species subject to bycatch (Agenda item 4) FAO Members should:

- Urge States and RFMOs to ensure that their decision making in these fora is scientifically based, reflecting the current status and needs of the target stocks, associated species and ecosystems.
- Urge States and RFMOs to ensure that independent performance reviews of all RFMO/As are undertaken no later than 2012, where they have not yet been done; that where reviews have been done, they are repeated every five years; that action is taken to implement recommendations from the reviews; and that these are made publicly available.
- Develop and adopt immediate and effective conservation and management measures, particularly for sharks and other populations and species of concern, including those evaluated as depleted. For example, the taking and retention of a species should be prohibited if there are no effective measures in place to ensure sustainability.
- Agree to binding measures and strengthen existing mitigation measures, including expediting implementation of bycatch reduction measures, particularly for threatened and endangered species.
- Agree on the need to establish conservation and management measures for all secondary catch, including bycatch.
- Develop and adopt mandatory reporting requirements for bycatch across all gear types and fishing methods where bycatch is a concern.
- Endorse the draft International Guidelines for Bycatch Management and Reduction of Discards.
- Develop and adopt a standard definition of bycatch to further inform and support the effective implementation of the Guidelines.

To address IUU fishing (Agenda item 7), FAO Members should:

- Express support for the prompt and wide ratification, acceptance, approval or accession to the Port State Measures Agreement (PSMA).

- Encourage States, individually and through RFMOs to strengthen PSMs applicable at the national and regional levels, based on the minimum standard set by the PSMA.
- Require the application and use of unique vessel identifiers (UVI) for all fishing and fishing support vessels operating beyond the national jurisdiction of their flag State.
- Support mechanisms that ensure the timely sharing of information related to all aspects of monitoring, control and surveillance (MCS) in the fisheries sectors, particularly those data leading to strengthened port State actions against IUU fishing vessels.
- Make progress towards the establishment of the *ad hoc* working group foreshadowed in Article 21 of the PSMA, which will make recommendations to FAO Members on funding mechanisms to implement the PSMA.

To promote adaptation and mitigation in fisheries, due to climate change (Agenda item 8), FAO Members should:

- Agree that more urgent work by Members and RFMO/As is required to establish marine protected areas including no-take marine reserves and representative networks, to increase ecosystem resilience to climate-related impacts.
- Encourage States and RFMO/As to take climate change and ocean acidification into account when developing and implementing conservation and management measures.

To improve integration of fisheries and aquaculture development and enhance biodiversity conservation and environmental protection (Agenda item 9), FAO Members should:

- Encourage States to assess the impacts of fishing on both target stocks and other species belonging to the same ecosystem, or associated with/dependent upon the target stocks.
- Encourage States acting individually and within RFMO/As to identify and adopt measures for conservation and sustainable use for ecologically or biologically significant areas, including by establishing representative networks of marine protected areas, and closing vulnerable marine ecosystems, representative marine areas and spawning grounds to fishing.
- Agree to develop, in cooperation with the Secretariat to the Convention on Biological Diversity (CBD), guidelines for the consideration of biodiversity in marine and coastal areas when adopting fisheries conservation and management measures.
- Emphasize the need to conduct impact assessments and further marine scientific research, and to identify areas where vulnerable marine ecosystems (VMEs) are known or likely to occur.
- Call on RFMO/As with the competence to regulate bottom fisheries, States participating in negotiations to establish such organizations or arrangements, and flag States to adopt and fully implement measures with respect to deep-sea fisheries in areas beyond national jurisdiction in accordance with paragraphs 83, 85 and 86 of UNGA resolution 61/105 and paragraph 119 of UNGA resolution 64/72, consistent with the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, and not to authorize bottom fishing activities until such measures have been adopted and implemented.
- Call on all relevant flag States that have not yet done so to submit to FAO a list of those vessels flying their flag authorized to conduct bottom fisheries in areas beyond national jurisdiction, and the measures they have adopted to give effect to the relevant paragraphs of UNGA resolution 61/105 and 64/72.

Overcoming Challenges, Towards Sustainability

COFI Twenty-ninth Session: Agenda items

- **Progress in the Implementation of the Code of Conduct for Responsible Fisheries and related instruments, including International Plans of Action, and other matters (Agenda item 4)**

The 1995 FAO Code of Conduct for Responsible Fisheries provides international standards for the conservation, management and development of living marine resources while recognizing unique nutritional, economic, social, environmental and cultural conditions as well as the health and well-being of fishers. COFI encourages FAO Members to implement the Code of Conduct for Responsible Fisheries. A 2011 peer-reviewed article revealed that the Code is still very relevant to FAO Members and is widely adopted.⁵ However, significant problems of IUU fishing and fishing overcapacity persist. There is a need to encourage FAO Members to further implement the Code, and to create and implement National Plans of Action to overcome these persistent challenges.

RFMO Accountability

RFMOs must be held accountable for the impacts of the fishing activities they are responsible for managing – on both target and non-target species as well as associated ocean ecosystems. It is crucial that the independent performance reviews of RFMO/As are undertaken no later than 2012, where they have not yet been done, and that where reviews have been done, they are repeated every five years, as called for by the U.N. Fish Stocks Agreement Review Conference.⁶ Action must be taken to implement the recommendations, which must be made publicly available, again as called for by the Review Conference. The regular reviews should both assess progress made since the last review, and identify any new issues that have arisen. Criteria for the reviews should be developed to ensure consistency across RFMOs. RFMOs should report on implementation of the recommendations from those periodic reviews to the United Nations General Assembly (UNGA), which should take action, as appropriate.

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Urge States and RFMOs to ensure that their decision making in these fora is scientifically based, reflecting the current status and needs of the target stocks, associated species and ecosystems.
- Urge States and RFMOs to ensure that independent performance reviews of all RFMO/As are undertaken no later than 2012, where they have not yet been done; that where reviews have been done, they are repeated every five years; that action is taken to implement recommendations from the reviews; and that these are made publicly available.

IPOA-Sharks

As we start 2011, shark fishing on the high seas is still largely unreported and unregulated. There are still virtually no international limits on high seas shark catches, and loopholes still hamper the enforcement of international prohibitions on finning – the wasteful and unnecessary practice of slicing off a shark's fins and discarding the body at sea.

Sharks' low reproductive rates and life histories make them particularly susceptible to overfishing in the face of increased demand for shark products, and the recovery potential for depleted species is significantly less than that of many other marine species. Up to 73 million sharks are killed annually to support the global shark

⁵ Housch, G. *et al.* (2011). The 1995 FAO Code of Conduct for Responsible Fisheries: Adopting, implementing or scoring results? *Marine Policy* 35:189-200.

⁶ Fish Stocks Review Conference Report, recommendation II(d).

fin trade.⁷ More than one-half of the shark species taken in high seas fisheries are listed on the International Union for Conservation of Nature (IUCN) Red List as Threatened or Near Threatened.^{8,9} The decline of these key predators risks the health of entire ocean ecosystems and precautionary management is urgently needed. Given the paucity of focused management, shark populations are vulnerable to becoming overfished at even very low levels of fishing. Full stock assessments for many shark species are not available due to data limitation; thus, ERAs¹⁰ can be an extremely useful tool to set scientifically-based conservation measures and catch limits.

Resolutions adopted by the IUCN World Conservation Congress in 2008 and supported by more than 98 per cent of government members called on States and RFMOs to: develop shark plans consistent with the IPOA-Sharks; regulate the catch of sharks; protect threatened species; improve the conservation and management status of migratory sharks in their waters and internationally; adopt science-based, precautionary limits on catches of straddling, migratory and oceanic sharks; and eliminate the practice of finning.¹¹

The UNGA has passed several resolutions calling on RFMOs to improve the management of shark fisheries.¹² In March, 2010 at the 15th meeting of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), four Appendix II listing proposals for shark species narrowly missed receiving the number of votes required to provide them the protections to help ensure sustainable international trade. In May, 2010 the resumed Review Conference of the UNFSA called on countries to implement “fins naturally attached” provisions and species-specific data collection requirements, as well as recommending biological assessments and the development of associated conservation and management measures for sharks. Most recently, at the meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) in November, important measures were agreed on to protect and limit fishing for oceanic whitetip and hammerhead sharks, but ICCAT fell short on protecting other vulnerable shark species.

More than a decade ago, COFI members recognized the urgent need to conserve and manage sharks. The International Plan of Action for the Conservation and Management of Sharks, adopted by COFI in 1999, applies to States within their exclusive economic zones (EEZs), as well as to vessels on the high seas. The objective of the IPOA-Sharks is to ensure the conservation and management of sharks and their long-term sustainable use, and it calls on States, nationally and through RFMOs and other arrangements, to develop national and regional plans of action to manage and conserve sharks.¹³

Unfortunately, this voluntary agreement has not been widely implemented, with only about 40 of the 134 known shark fishing States and entities (less than a third) having implemented a National Plan of Action (NPOA) for sharks and no RFMO has adopted a regional plan of action to conserve sharks. Further, where national plans have been developed, some do not follow the guidelines outlined in the IPOA, while others simply do not implement them.

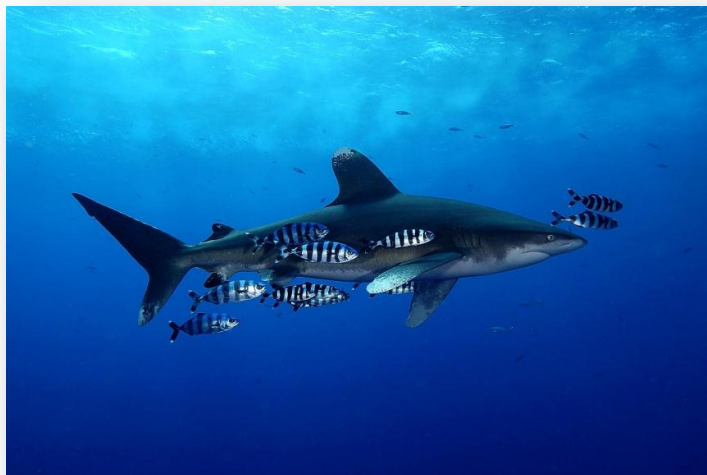


Photo: Manu San Felix

⁷ Clarke, S.C., et al. (2006). Global estimates of shark catches using trade records from commercial markets. *Ecology Letters* 9:1115-1126.

⁸ Camhi, M.D., et al. (2009). *The conservation status of pelagic sharks and rays: Report of the IUCN shark specialist group pelagic shark Red List workshop*. IUCN Species Survival Commission Shark Specialist Group, Newbury, U.K.

⁹ www.iucnredlist.org/

¹⁰ ERA is an innovative tool for examining and ranking the potential effects of fisheries on a group of species. Risk is considered using two measures—productivity (the population growth rate) and susceptibility (a species’ level of vulnerability to fishing effort).

¹¹ http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/REC/rec_4_113_conserving_migratory_and_oceanic_sharks_.pdf and http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/REC/rec_4_114_global_policy_against_shark_finining.pdf

¹² www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm

¹³ www.fao.org/DOCREP/006/X3170E/X3170E00.HTM

An external analysis of the application of the principles of the IPOA-Sharks by the top 20 major shark-catching countries and entities, which the Pew Environment Group will release at the COFI meeting¹⁴, shows that far too many COFI members have not adopted the recommendations of the IPOA-Sharks relating to developing shark assessment reports and NPOAs. The top 20 shark-catching countries and entities (many of which are COFI members) accounted for a total shark catch of approximately 80 per cent, or 6.5 million tons, of the total reported global shark catch during the 2000-2008 period. Further action on NPOAs for sharks and the IPOA-Sharks, and on shark conservation and management, is critical to ensuring healthy marine ecosystems, both within EEZs and on the high seas.

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Recommend that sharks should not be retained onboard fishing vessels or fins removed until science-based management plans are developed and in place.
- Recommend that States and RFMOs conduct ERAs in the absence of stock assessments to inform conservation and management measures.
- Recommend that States and RFMOs that have not yet done so establish and implement species-specific data collection requirements for sharks taken in all fisheries.
- Adopt an ongoing and transparent mechanism to monitor progress of the top 20 shark fishing countries and entities' implementation of the principles of the IPOA-Sharks.
- Direct the FAO Fisheries and Aquaculture Secretariat to undertake a thorough analysis of the implementation of the IPOA-Sharks by, at least, the major shark fishing countries and entities. This analysis should evaluate the actions taken to manage shark fisheries, starting with those countries and entities that lack information on management or demonstrate little or no management for shark fisheries and require that the analysis is provided in a publicly available document at COFI 2013.

Reduction of bycatch and discards

The CBD in its Marine and Coastal Biodiversity decision at COP-10 in Nagoya, Japan laid out a pathway to ensure the sustainability of fisheries, by managing the impacts of fisheries on species and the wider ecosystem,¹⁵ in collaboration with the FAO and RFMOs, amongst others. This included implementing the ecosystem approach, eliminating IUU fishing, minimizing the detrimental impacts of fishing practices and mitigating and managing bycatches sustainably and reducing discards. The pathway aims to attain a sustainable exploitation level of marine fishery resources and thereby contributing to a good environmental status in marine and coastal waters.

Additionally, the UNGA in its 2010 Sustainable Fisheries Resolution,¹⁶ urged States and RFMO/As to reduce and eliminate bycatch and to consider measures, including technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones among others. The UNGA also called upon States to improve the comprehensiveness and accuracy of information and reporting on incidental catch of species caught as bycatch, including through adequate overseer coverage and the use of modern technologies. All of these efforts and decisions on bycatch must be implemented immediately as stated by the FAO Code of Conduct for Responsible Fisheries, and the mission of FAO.

Draft International Guidelines on Bycatch Management and Reduction of Discards

Pew welcomes the development, by COFI, of the draft International Guidelines on Bycatch Management and Reduction of Discards. Despite over twenty years of formal recognition of the need to reduce non-target catches and discards as part of the path to fisheries sustainability, there remains a clear danger from unmanaged and unused catches – most of which is currently subsumed under the broad “bycatch” heading. Despite substantial work by FAO and others to develop International Plans of Action and technical guidelines

¹⁴ This report will be available at www.PewEnvironment.org.

¹⁵ www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf: COP 10 Decision X/29: Marine and Coastal Biodiversity, paragraph 13(g)

¹⁶ <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N10/657/71/PDF/N1065771.pdf?OpenElement>

to aid in the reduction in incidental catches of various species and groups of species, there continues to be insufficient attention and action on the issue of bycatch reduction and management.

These Guidelines are an important contribution to the continuing effort to ensure all catches are recognized and regulated – regardless of whether the catch was formally considered a “target” by the fishery or not. With this understanding, Pew is disappointed with the decision not to determine a standard international definition for bycatch. While the rationale put forward for this decision is that different countries and fisheries may currently choose to define bycatch differently, it is precisely this variability that leads to fragmented and insufficient management of non-target catches. This diversity in defining bycatch is exactly the reason that FAO can and should lead the global community in determining a standard definition of bycatch and providing guidance on application of that definition via tools such as these Guidelines.

Shark Bycatch: A significant problem

Sharks are taken both in directed fisheries, and through unregulated and unmanaged catch including bycatch. In light of the precarious conservation status of sharks on a global scale, shark bycatch and the impact of shark removal on wider ecosystem stability need urgent attention. According to the IUCN, bycatch is one of the most devastating threats facing sharks.¹⁷ While some COFI members and RFMOs have prohibited the taking of a small number of threatened species, the problem of shark bycatch has been largely ignored, and meaningful and effective action must be taken to adequately address this issue.



Photo: Alexander Safanov

Sound, precautionary management of all species taken in fisheries, including bycatch species, is required to prevent population collapse, allow species recovery and maintain adequate ecosystem functions. The Code of Conduct for Responsible Fisheries includes the precautionary approach in its guidelines for fisheries management, and states that the “absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.”¹⁸ It is vital to apply this approach to bycatch species, including sharks.

Current understanding of the impacts of bycatch of sharks is profoundly inadequate because catch statistics are scarce. It is estimated that actual shark landings are three to four times higher than the catches reported to the FAO.¹⁹ In 2007, only 20 per cent of shark-catch data were provided at species level.²⁰ As a result, the status and stock assessments of individual shark species are very difficult to determine. In 2010 the Resumed Review Conference of the UNFSA recommended the establishment and implementation of species-specific data collection requirements for all shark species, whether taken in directed fisheries or caught as bycatch²¹. It also recommended biological assessments and associated conservation and management measures for sharks. The current lack of data undermines effective conservation and management of high seas fisheries, particularly shark species. Shark catches are often unreported, underreported or recorded in generic species categories, contrary to Article 5(j) of the UNFSA.²² Finally, at the Kobe II Bycatch Workshop²³ in 2010,

¹⁷ Camhi, M.D., *et al.* (2007). The conservation status of pelagic sharks and rays: Report of the IUCN shark specialist group pelagic shark Red List workshop. IUCN Species Survival Commission Shark Specialist Group.

¹⁸ www.fao.org/docrep/005/v9878e/v9878e00.HTM

¹⁹ Clarke, S.C., *et al.* (2006). Global estimates of shark catches using trade records from commercial markets. *Ecology Letter* 9:1115-1126.

²⁰ Lack, M. and Sant, G. (2009). Trends in global shark catch and recent developments in management. TRAFFIC International.

²¹ www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm

²² Article 5(j): “[C]oastal 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...”

²³ Kobe II Bycatch Workshop, Brisbane, Australia 2010.

participants supported presenting a number of recommendations to RFMOs for sharks and other bycatch species.

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Develop and adopt immediate and effective conservation and management measures, particularly for sharks and other populations and species of concern, including those evaluated as depleted. For example, the taking and retention of a species should be prohibited if there are no effective measures in place to ensure sustainability.
 - Agree to binding measures and strengthen existing mitigation measures, including expediting implementation of bycatch reduction measures, particularly for threatened and endangered species.
 - Agree to the need to establish conservation and management measures for all secondary catch, including bycatch.
 - Develop and adopt mandatory reporting requirements for bycatch across all gear types and fishing methods where bycatch is a concern.
 - Endorse the draft International Guidelines for Bycatch Management and Reduction of Discards.
 - Develop and adopt a standard definition of bycatch to further inform and support the effective implementation of the Guidelines.
- **Progress made with regard to measures against illegal, unreported and unregulated (IUU) fishing, including port State measures, flag State performance, market-related measures and development of a Comprehensive Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels (Agenda item 7)**

IUU Fishing and Port State Measures

IUU fishing is a multibillion-dollar global business that undermines sustainable fisheries management and threatens legitimate fishing operations. IUU fishing involves virtually all species in all countries and oceans. IUU fishing is a product of loose and leaky management systems that are incapable of securing compliance with the world's fisheries conservation policies. As recognized by the UNGA, IUU fishing "constitutes a serious threat to fish stocks and marine habitats and ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States".²⁴ In this context, the international community at large needs to intensify its efforts and develop cost-effective solutions to combat IUU fishing. As a tool to combat IUU fishing, enhanced port State controls are critical.

If well implemented, PSMs can be an efficient and cost-effective tool against IUU fishing, especially if used as part of a broader set of instruments. The UNGA has expressly recognized "the need for States, individually and through regional fisheries management organizations and arrangements, to continue to develop and implement, consistent with international law, effective port State measures".²⁵ The adoption by the FAO Conference of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) in November 2009 demonstrates the importance given by FAO Members to these measures, and the important role of FAO in efforts to combat IUU fishing. The PSMA is a far-reaching agreement achieved in response to the mandate given by COFI in 2007 to develop a legally binding instrument on PSMs.²⁶

²⁴ Resolution 65/38: <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N10/657/71/PDF/N1065771.pdf?OpenElement>, Preamble.

²⁵ Resolution 65/38: <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N10/657/71/PDF/N1065771.pdf?OpenElement>, Preamble.

²⁶ FAO Fisheries Report No/830 FIEL/R830(En), Report of the twenty-seventh session of the Committee on Fisheries, Rome, 5-7 March 2007.

However, recent research by the Pew Environment Group shows that application of PSMs by States and RFMOs currently lacks transparency, accountability and global reach, which limits the ability of port States to keep IUU fish out of ports and final markets. To address these problems, at this session of COFI, we urge FAO Members to encourage prompt and widespread ratification of the PSMA and implementation of its measures even prior to entry into force, support enhanced transparency by facilitating the public sharing of information generated by port visits, and show a strong commitment to assist developing countries in building the capacity to effectively implement PSMs.

The Port State Measures Agreement

The PSMA provides a set of highly effective tools to be used by port States to combat IUU fishing. Its key measures include: designation of ports where foreign vessels may request entry; prohibition of entry into port; prohibition of landing, transshipment and access to port services to vessels involved in IUU fishing; comprehensive regulation of port inspections; and obligations to notify relevant States and organisations of actions taken in port thus resulting in enhanced enforcement arrangements. Twenty-two States from different regions across the world plus the European Union have signed the PSMA and other States are developing domestic arrangements to allow them to accede to the Agreement. Some States are endeavouring to implement its measures even before it enters into force.

The PSMA provides the new international minimum standard on PSMs against IUU fishing. The Pew Environment Group strongly supports the earliest possible entry into force of the PSMA. We encourage States to ratify or accede to the Agreement as soon as possible, and where possible to apply its provisions in the interim.



Photo: Matt Rand

Role of RFMOs in Port State Measures

RFMOs can also play a key role in strengthening PSMs applied in ports of their Contracting Parties (CPs) and cooperating non-CPs. Preliminary findings from a study Pew conducted, which compares PSMs adopted by 10 RFMOs with the provisions of the PSMA, show that while almost all RFMOs have in place some form of port State control, such regional systems are neither as comprehensive nor as effective as that of the PSMA.²⁷ The Indian Ocean Tuna Commission has recently adopted a Resolution that incorporates many of the PSMA's provisions into its system. Other RFMOs are considering substantive reforms of their respective systems of port State controls. Strengthening and harmonizing PSMs at the regional level, together with enhancing cooperation and information sharing between RFMOs, would greatly contribute to effectively closing ports to illegal fish and IUU fishing and support vessels.

²⁷ See "Preliminary Findings from a Gap Analysis", www.pewenvironment.org/IUUfishing.

Transparency Is Key to Eliminating IUU Fishing

The current system of monitoring, control and surveillance (MCS) leaves loopholes that are exploited by those engaged in IUU fishing and allow them to continue their operations, often undetected. The Pew Environment Group's research on Port State Performance shows that the existing measures against IUU fishing vessels will not be successful in deterring and combating IUU fishing unless vessels involved can be identified and tracked.²⁸ Transparency and the availability of real time information is a fundamental requirement upon which the global enforcement system should be based. Measures against vessels engaged in IUU fishing will only be effective if the lack of transparency in the current arrangements is addressed. Improvements in this regard will also improve the accountability of flag and port States.

A relatively simple way to improve transparency is to require all fishing and support vessels operating in areas beyond the national jurisdiction of their flag State to be identifiable by the use of permanent unique vessel identifiers (UVIs). The concept of a unique identifier system has been endorsed by the UNGA, which encouraged efforts to develop and manage a comprehensive global record in its recent resolution A/RES/65/38²⁹. Without UVIs, IUU fishing vessels can disguise their identity by changing flags, names or radio call signs. The only fully developed and currently used UVI is the International Maritime Organization (IMO) number, provided through registry with the IHS-Fairplay ship numbering scheme (IHS-F, previously Lloyd's Register). This number is required for all merchant vessels but not for fishing vessels and (non merchant) fishing support vessels.

As an initial step in this process, all flag States should require that fishing and fishing support vessels over 100 gross tones or 24 meters or vessels operating outside the flag States' EEZ register with HIS-F (and obtain an IMO number). RFMOs should also require all vessels licensed to fish in their convention areas to have an IMO number and to record this number in all communication and include it in their records, which should be publicly available.

In addition to UVIs, States should establish mechanisms that enable MCS officers around the world to effectively share information relevant for the identification of IUU fishing activities. Articles 6, 9 and 12 of the PSMA provide the framework for international cooperation that will contribute to the identification of IUU fishing through information-sharing. The International MCS Network is working to improve these mechanisms by providing tools, training and expertise that increase capacity at the domestic level and foster greater international cooperation and should be supported in this effort.

Building Mechanisms for Effective Implementation of PSMs

To be able to immediately meet the requirements of the PSMA and to implement PSMs generally, developing countries need assistance with capacity building. The PSMA provides a response to this need through its Article 21,³⁰ a provision which should play a major role in the successful implementation of the PSMA. Article 21 establishes obligations for Parties aimed at securing legal, technical, and financial assistance for developing States, and provides for the creation of an *ad hoc* working group that shall make recommendations to the Parties on issues such as the establishment of funding mechanisms, the identification and mobilization of funds, and the development of procedures to guide implementation.

FAO Members should take the opportunity of the 2011 COFI meeting to develop arrangements to establish the *ad hoc* working group before the entry into force of the Agreement. With the early establishment of mechanisms to support the implementation of the PSMA, ratification or accession by developing States would be more likely. In addition, building capacity will help countries to prepare for the implementation of the Agreement once it enters into force.

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Express support for the prompt and wide ratification, acceptance, approval or accession to the PSMA.

²⁸ www.portstateperformance.org/ and www.sciencemag.org/content/328/5983/1235.full.pdf?keytype=ref&siteid=sci&ikey=YlwgNky7ZLrTw.

²⁹ <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N10/657/71/PDF/N1065771.pdf?OpenElement>

³⁰ www.fao.org/Legal/treaties/037t-e.pdf.

- Encourage States, individually and through RFMOs to strengthen PSMs applicable at the national and regional levels, based on the minimum standard set by the PSMA.
- Require the application and use of UVIs (IMO/HIS-F numbers) for all fishing and fishing support vessels operating beyond the national jurisdiction of their flag State.
- Support mechanisms that ensure the timely sharing of information related to all aspects of MCS in the fisheries sectors, particularly those data leading to strengthened port State actions against IUU fishing vessels.
- Make progress towards the establishment of the *ad hoc* working group foreshadowed in Article 21.6 of the PSMA, which will make recommendations to FAO Members on funding mechanisms to implement the PSMA.

○ Fisheries and aquaculture in our changing climate: adaptation and mitigation in fisheries and aquaculture (Agenda item 8)

It is crucial for FAO and States to mainstream climate change and ocean acidification issues into fisheries management and marine conservation. At this Twenty-ninth session of COFI, the Committee will consider and comment on a roadmap for adaptation and mitigation measures to climate change in fisheries and aquaculture. One specific outcome mandated by the CBD for COFI to consider is increasing the resilience of coastal and marine ecosystems, through establishing marine protected areas, including representative networks,³¹ as well as incorporating climate change impacts and ecosystem-based adaptation in management. Similar recommendations were made in the CBD Decision on Climate Change.³² We recommend that marine protected areas, including no-take marine reserves, be mainstreamed into the climate change roadmap under consideration. Furthermore, the UNFSA Resumed Review Conference³³ called on Parties to strengthen efforts to study and address environmental factors affecting marine ecosystems, including adverse impacts of climate change and ocean acidification and, where possible, consider such impacts in establishing conservation and management measures for straddling fish stocks and highly migratory fish stocks.³⁴

It is also essential that climate change and ocean acidification be taken into account by States and RFMO/As when assessing and managing fisheries and protecting biodiversity as part of precautionary, scientific and ecosystem-based decision making.³⁵ In addition, CBD will ask FAO to participate in a series of joint expert review processes to monitor and assess the impacts of ocean acidification on marine and coastal biodiversity.³⁶

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Agree that more urgent work by Members and RFMO/As is required to establish marine protected areas including no-take reserves and representative networks, to increase resilience in ecosystems against climate-related impacts.
- Encourage States and RFMO/As to take climate change and ocean acidification into account when developing and implementing conservation and management measures.

³¹ www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf; COP 10 Decision X/29: Marine and Coastal Biodiversity, paragraph 8(d).

³² www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf; COP 10 Decision X/33: Biodiversity and Climate Change.

³³ www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm.

³⁴ Fish Stocks Review Conference Report paragraph 6(n)

³⁵ CBD Decision on Marine and Coastal Biodiversity, paragraphs 7 and 65.

³⁶ CBD Decision on Marine and Coastal Biodiversity, paragraph 66.

○ **FAO's role for improved integration of fisheries and aquaculture development and management, biodiversity conservation and environmental protection: a focus on marine protected areas (Agenda item 9)**

Amongst the crucial tools for the conservation of biodiversity and environmental protection are area based management and, specifically, marine protected areas. At the CBD³⁷ COP-10 meeting held in Nagoya in October 2010, Parties agreed to a strategic plan that included Target 11: By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascapes. The Parties also agreed on an important decision on Marine and Coastal Biodiversity which included extensive provisions on marine protected areas. The decision lays out a series of regional workshops to identify ecologically or biologically significant areas (EBSAs) based on the application of scientific criteria,³⁸ and the establishment of a repository for scientific and technical information and experience related to the application of scientific criteria for the identification of EBSAs. They also called for development of an information sharing mechanism with similar initiatives, such as FAO's work on vulnerable marine ecosystems (VMEs).³⁹ Reports of this work will be sent to the UNGA, particularly the Ad Hoc Open-ended Informal Working Group (known as the BBNJ), as well as relevant international organizations, Parties and other Governments.

The CBD decision encourages governments and competent intergovernmental organizations to identify and adopt measures for conservation and sustainable use in relation to ecologically or biologically significant areas, including the U.N. Convention on the Law of the Sea, by, among others, establishing representative networks of marine protected areas based on the best scientific information available, and informing the relevant processes within the UNGA. The Parties also noted that areas found to meet the EBSA criteria may require enhanced conservation and management measures, and that this can be achieved through a variety of means, including marine protected areas and impact assessments.⁴⁰

The UNGA has also continued to call for the improved integration of fisheries management and biodiversity conservation and environmental protection for VMEs. UNGA resolution 64/72, adopted in December 2009, both strengthened and reaffirmed UNGA resolution 61/105 and the commitment by flag States individually and through RFMOs to implement measures necessary to prevent harm to vulnerable deep-sea ecosystems from destructive bottom fisheries and to ensure the long-term sustainability of deep-sea fish, including species caught as bycatch, in areas beyond national jurisdiction. Over the past several years a number of measures have been taken by some States and RFMOs to implement the provisions of UNGA resolutions 61/105 and 64/72 with respect to the management of deep-sea fisheries in areas beyond national jurisdiction. Nonetheless, several reviews of actions taken by States and RFMOs to manage deep-sea fisheries in the high seas have highlighted serious shortcomings in the implementation of both resolutions.⁴¹ These

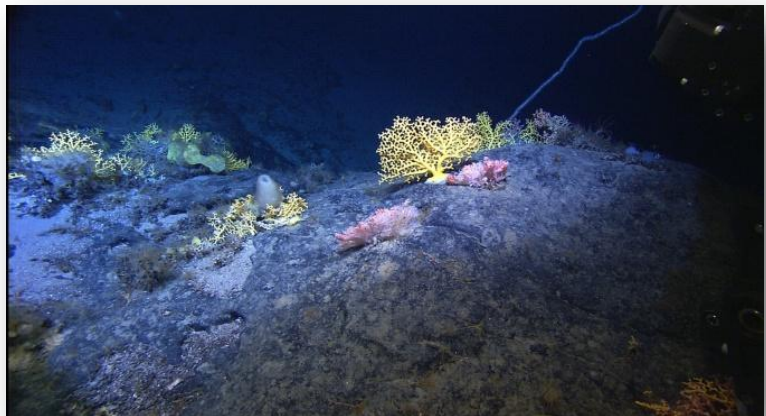


Photo: Mountains in the Sea 2004

³⁷ www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf: COP 10 Decision X/2: The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, paragraph 13.

³⁸ www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf: COP 10 Decision X/29: Marine and Coastal Biodiversity, paragraph 38.

³⁹ COP 10 Decision X/29 paragraph 39.

⁴⁰ COP 10 Decision X/29 paragraph 26.

⁴¹ Report of the ICES/NAFO Joint Working Group on Deep-water Ecology (WGDEC), 22–26 March 2010, Copenhagen, Denmark. ICES WGDEC REPORT 2010, ICES ADVISORY COMMITTEE, ICES CM 2010/ACOM:26, International Council for the Exploration of the Sea (ICES). www.ices.dk/reports/ACOM/2010/WGDEC/wgdec_final_2010.pdf.

include the failure of States whose vessels engage in high seas bottom fisheries in the Atlantic, Indian and South Pacific Oceans to conduct impact assessments as called for in paragraph 83 and 119 of UNGA resolutions 61/105 and 64/72 respectively; failure to ensure the long-term sustainability of deep-sea fish stocks, including bycatch species; the failure to identify all areas where VMEs are known or likely to occur and close such areas or otherwise manage bottom fisheries in these areas to prevent significant adverse impacts on VMEs; and the failure to implement a meaningful 'move-on' rule that would be effective in preventing significant adverse impacts to VMEs. Both resolutions committed flag States that authorize vessels to bottom fish on the high seas to prevent or not authorize their vessels from engaging in such fishing unless or until the measures agreed in the UNGA resolutions are fully implemented.

In addition the CoP to the CBD in its Marine and Coastal Biodiversity Decision at COP-10 at Nagoya also encouraged full and effective implementation of paragraphs 113-130 of UNGA resolution 64/72 which pertain to deep-sea fisheries.⁴² They specifically pointed to the need to conduct impact assessments, to conduct further marine scientific research, to use the best scientific and technical information available to identify areas where VMEs are known or likely to occur, to either adopt conservation and management measures to prevent significant adverse impacts on such ecosystems or close such areas to fishing, and to adopt measures to ensure the long term sustainability of deep-sea fish stocks (both target- and non-target stocks); and not to authorize bottom fishing activities until such measures have been adopted and implemented. These are an important suite of measures that must be rigorously implemented wherever deep-sea fishing is conducted.

Recommendations

At this Twenty-ninth Session of COFI, FAO Members should:

- Encourage States to assess the impacts of fishing on both target stocks and other species belonging to the same ecosystem, or associated with/dependent upon the target stocks.
- Encourage States acting individually and within RFMO/As to identify and adopt measures for conservation and sustainable use for ecologically or biologically significant areas, including by establishing representative networks of marine protected areas, and closing vulnerable marine ecosystems, representative marine areas and spawning grounds to fishing.
- Agree to develop, in cooperation with the Secretariat to the CBD, guidelines for the consideration of biodiversity in marine and coastal areas when adopting fisheries conservation and management measures.
- Emphasize the need to conduct impact assessments and further marine scientific research, and to identify areas where VMEs are known or likely to occur.
- Call on regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries, States participating in negotiations to establish such organizations or arrangements, and flag States to adopt and fully implement measures with respect to deep-sea fisheries in areas beyond national jurisdiction in accordance with paragraphs 83, 85 and 86 of UNGA resolution 61/105 and paragraph 119 of UNGA resolution 64/72, consistent with the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, and not to authorize bottom fishing activities until such measures have been adopted and implemented.
- Call on all relevant flag States that have not yet done so to submit to FAO a list of those vessels flying their flag authorized to conduct bottom fisheries in areas beyond national jurisdiction, and the measures they have adopted to give effect to the relevant paragraphs of UNGA resolution 61/105 and 64/72.

Review of Progress on Implementation of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas. Experience of RFMO/As with identifying and protecting VMEs. Paper prepared by Jake Rice, Fisheries and Oceans, Canada, for the *Workshop on the Implementation of the FAO Guidelines for the Management of Deep-Sea Fisheries in the High Seas: challenges and solutions* hosted by the Government of the Republic of Korea. Busan, Korea 10-12 May 2010.

Rogers, A.D., M. Gianni (2010) The Implementation of UNGA Resolutions 61/105 and 64/72 in the Management of Deep-Sea Fisheries on the High Seas. Report prepared for the Deep-Sea Conservation Coalition. International Programme on the State of the Ocean, London, United Kingdom, 97pp.

Review of the implementation of the provisions of UNGA resolution 61/105 related to the management of high seas bottom fisheries. Submission to the UN Division for Oceans Affairs and the Law of the Sea. Deep Sea Conservation Coalition. May 2009 www.savethehighseas.org

⁴² COP 10 Decision X/29 paragraph 54.



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Photos: Top Keith Ellenbogen/Oceana, Left Gulf of Alaska 2004. NOAA Office of Ocean Exploration
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