

## UN Fish Stocks Agreement Review Highlights: Thursday, 25 May 2023

Drafting Committee negotiations were the main course on Thursday's deliberations at the Resumed Review Conference on the Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea (UNCLOS) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, known as the UN Fish Stocks Agreement (UNFSA).

In the morning, delegates focused on the section of the draft outcome document addressing conservation and management of fish stocks. In the afternoon, they concluded the first reading of the document. They will need to iron out remaining disagreements, minor and substantive, to be able to adopt the outcome by consensus on Friday.

### Drafting Committee

**Conservation and management of stocks:** Ariel Peñaranda, Chair of the Drafting Committee, opened the session, underscoring the sense of purpose and commitment to finding common ground. He highlighted the objective to produce a consensus outcome document, stressing the need for cooperation and time management.

On improving cross-sectoral cooperation and information sharing regarding the utilization of area-based management tools, a delegate noted that mandates of organizations based on UNFSA balance conservation and sustainable use in various ways. Others emphasized that despite the fact that certain organizations focus more on conservation or on sustainable use, these issues should be considered together, pointing to ongoing collaboration, and highlighting the need for consistency. Discussions will continue.

Regarding elimination of subsidies that contribute to illegal, unreported, and unregulated (IUU) fishing, overfishing and overcapacity, delegates discussed a suggestion calling for implementing Sustainable Development Goal 14 (SDG 14 - life below water) and in particular Target 14.6 (elimination of subsidies that contribute to overfishing and IUU fishing), and for accepting the World Trade Organization (WTO) Subsidies Agreement and completing further negotiations for a comprehensive agreement on fisheries subsidies.

A delegation suggested "implementing the commitment" under SDG 14; "considering to accept" the WTO Subsidies Agreement, supported by some; and "conducting" rather than "completing" further negotiations on subsidies. Another proposed adding reference to enhancing data availability and transparency on fisheries' subsidies, consistent with WTO rules. Chair Peñaranda suggested informal consultations between interested parties to reach consensus.

On lost, abandoned, or otherwise discarded fishing gear including marine debris, delegates agreed to include reference to ghost fishing, and debated at length a reference regarding implementation of the Food and Agriculture Organization of the UN (FAO) Voluntary Guidelines on the Marking of Fishing Gear. A delegation suggested "applying" rather than "implementing"

the FAO guidelines, noting their voluntary character. Another proposed "encouraging implementation." A similar discussion took place on language encouraging engagement in the International Maritime Organization (IMO) – FAO GloLitter Partnerships Project, with one delegation querying whether such reference would become obsolete during the next Review Conference. Discussions will continue.

On data collection and sharing of information, a new paragraph was proposed by a party on the need to enhance understanding of emerging technologies in data collection, with a focus on regions not covered by regional fisheries management organizations (RFMOs) or other mechanisms. Two parties preferred to have a more general formulation without specifically mentioning non-managed areas. One party also cautioned on the use of emerging technologies, and underscored the need to understand their full impacts, especially in the case of satellite and aerial surveillance.

On a paragraph highlighting the need to prioritize assessments for some stocks to increase the number of fully assessed stocks, one party requested more time for internal consultations, noting that, in some countries, science-based quotas are not set for all fished species.

On the management of sharks, one party required the deletion of a reference to bycatch mitigation provisions on the rationale that it is burdensome for developing countries, which delegates accepted.

On the conservation and management of deep-sea fisheries, one party suggested deleting a reference to "their associated ecosystem." A delegate proposed text aligned with the UN resolutions on deep-sea fisheries on "vulnerable marine ecosystems (VMEs) and their associated species," which delegates accepted. One delegate objected to a reference to "accelerating" the implementation of measures, with others emphasizing that some of these measures exist already and need to be swiftly expanded. The reference remained unresolved and discussions will continue.

On a paragraph on seabird bycatch proposed by one party, the proponent explained that the aim was to reflect the work in FAO and RFMOs, and the risks of extinction for a number of these species, stressing that actions should be based on science and specific risks. This additional paragraph was supported by several parties but opposed by two delegations, on the rationale that there are other associated species that could be mentioned and a more general paragraph could be a better option. Chair Peñaranda suggested informal discussions to reach consensus.

On strengthening the science-policy interface, parties discussed replacing "evidence" with "information," based on one party's proposal to reflect that, in some situations, a broader and more inclusive understanding of the information available is necessary. A delegate, supporting the use of "information," stressed that in marine science evidence is sometimes difficult to acquire. Other delegates preferred "evidence," stressing that in the context of climate change, management must be based on scientific evidence. The reference remains bracketed and discussions will continue. A delegation proposed to also refer to "other impacts" besides those of climate change, which was accepted.

On bycatch management and discards, delegates discussed whether to include the phrase “reduce post-release mortality.” Some said the addition provides no incentive to eliminate discards, while others noted that some parties do not as yet have the capacity for complete elimination of bycatch. Discussion will continue. Delegates agreed to add reference to the FAO Technical Guidelines to Reduce Marine Mammal Bycatch in Capture Fisheries.

On the establishment of new RFMOs, delegates agreed to “encourage as appropriate” the expansion of their geographical and/or species coverage. They also agreed to text inclusions on collaboration for sharing information in areas of the ocean where no RFMOs are in place.

**Mechanisms for international cooperation and non-members:** On strengthening and enhancing cooperation and coordination among RFMOs, they agreed that harmonized or consistent measures should also include those related to crew and observer conditions within the fisheries, in accordance with applicable international instruments.

On promoting cooperation between RFMOs covering the same area and neighboring countries covering the same species, one party noted the notion of neighbors is unclear since stocks can migrate across several borders. Discussions will continue.

On improving decision-making rules and procedures in RFMOs, delegates discussed at length whether to reflect the need to agree transparent criteria for the allocation of fishing rights. Some suggested focusing on the allocation rather than on respective criteria. Others cautioned against reference to the rights of coastal states, arguing in favor of the principle of non-discrimination. Delegates eventually agreed to revert to previously agreed language referring to addressing participatory rights including through the development of transparent criteria for allocating fishing opportunities, taking due account of the status of relevant stocks and the interests of all those with a real interest in the fishery. Delegates further agreed to examine best practices in objection processes in RFMOs, with some stressing that not all RFMOs need to have uniform objection processes but rather tailored to their needs.

On effective control by flag states as members of RFMOs, several parties requested deleting a reference on special consideration for vessels fishing outside of RFMO-managed areas, noting that the topic is already addressed in other sections of the text, which was agreed.

Delegates discussed the placement of a proposed standalone new paragraph on RFMOs reviewing their rules and processes.

**Monitoring, control and surveillance, compliance, and enforcement:** In relation to flag state responsibilities regarding strengthening of effective control over vessels flying their flag, delegations agreed to add a reference “wherever they operate.”

Regarding a suggested paragraph on maintaining and making public the records of vessels that operate in the high seas and cooperate with coastal and port states, one party opposed and another requested clarification on the intent. Discussions will continue.

On fishing vessels without nationality, a party proposed reference to satellite monitoring as a way to track such vessels. Another party opposed, noting that this technology was not fully assessed and may not be applicable in this context. All parties agreed to delete any reference to monitoring as the focus of the paragraph is on enforcement actions.

On the participation under the Agreement on Port State Measures (PSMA), one party requested reference to states not yet parties to the PSMA. Discussions will continue.

Regarding controlling fishing activities that undermine conservation and management of stocks, one party noted that it is not possible to exert complete control over such activities and objected the deletion of the phrase “to the extent possible.” Several called for reference to fishing and other fishing-related activities.

On strengthening compliance, cooperation, and enforcement schemes in RFMOs, parties agreed to include references to

UNFSA Articles 21 (subregional and regional cooperation in enforcement) and 22 (basic procedures for boarding and inspection). Delegates also discussed regulation of transshipment, supply, and refueling vessels, agreeing to “encourage” the use of FAO guidelines, rather than “implementing” them, given their voluntary nature.

On strengthening fisheries access agreements, countries could not reach consensus on language around the use of vessel monitoring systems and on-board observers or other monitoring measures. Discussions will continue.

On market-related measures, delegates agreed on language encouraging states to implement the FAO Voluntary Guidelines on Catch Documentation Schemes. They further agreed to promoting seafood supply chain traceability.

Delegates agreed to delete reference to the Global Information Exchange System. They further agreed to encourage parties to use and keep up to date the Global Record of fishing vessels, refrigerated transport vessels, and supply vessels.

**Developing states and non-parties:** Delegates agreed to refer to “data collection and management” rather than to “data collection, integration, and harmonization.”

On strengthening the capacity of developing states, some delegations questioned how new provisions on developing capacity-building strategies and methodologies will be operationalized, requesting clarifications.

On the promotion of wider participation in the Agreement, some delegations queried how a communication strategy to promote the UNFSA would be operationalized, and suggested that the topic is already captured in a FAO project.

**Dissemination of the final report and further reviews:** Regarding the resumption of the Review Conference, one party proposed to hold it not earlier than 2027. A party requested delegates to address his additions regarding the importance of food security in the section related to the conservation and management of stocks. Delegations agreed with the addition.

Following the completion of the first reading, Chair Peñaranda announced that the edited draft would be circulated, and urged delegates to resolve pending divergences.

### *In the Corridors*

Work on the outcome document continued on Thursday, with delegates spending the day on the first reading in a meticulous paragraph-by-paragraph approach. The drafting exercise proceeded at first in a slow pace causing the Drafting Committee Chair to alert delegates on the need to speed up the drafting process in order to agree on a final outcome document for Friday’s adoption. Some delegations, relatively quiet since the start of the meeting, started taking the floor more systematically, sometimes to support but mostly to oppose additions to strengthen the recommendations put forth by parties who have been more active since the beginning of the meeting. As one of these more vigorous delegates said: “however frustrating, this is to be expected and it is part of the process in order to have a final outcome acceptable by everyone.”

A change of mood as the finish line came into focus led to a quickening of the pace in the afternoon, as the appetite for debate was replaced by the urgency for completion. Parties began finding general agreement on new language proposed by several delegations to strengthen the recommendations. In addition, proponents of contentious text withdrew their proposals in favor of original formulations contained in the 2016 Review Conference. Even though the first reading was completed by the end of the afternoon plenary, a short evening session ensued, as the Chair pointed out pending divergences requiring consensus in some recommendations. “We are close to reaching consensus” offered a tired delegate exiting the conference room, “but the devil is always in the details.”

The *Earth Negotiations Bulletin* summary and analysis of the Resumed Review Conference will be available on Tuesday, 30 May 2023 at [enb.iisd.org/2023-resumed-review-conference-unfish-stocks-agreement-unfisa](https://enb.iisd.org/2023-resumed-review-conference-unfish-stocks-agreement-unfisa)