

The UN Fish Stocks Agreement (UNFSA) and Tuna RFMO Members

By the delegation of Norway

UNFSA establishes a set of rights and obligations for States to conserve and manage fish stocks, associated and dependent species as well as to protect biodiversity in the marine environment. It sets out mechanisms for international cooperation, and identifies RFMOs as the mechanism through which States can fulfil their obligations to manage and conserve the stocks. As there is a clear linkage between RFMOs and UNFSA, all RFMO members should also become parties to UNFSA.

Article 64 of the Law of the Sea (LOS) Convention addresses the management of highly migratory fish stocks, calling on coastal States and other States fishing for highly migratory fish stocks in a region to “*cooperate directly or through appropriate international organizations with the view to ensuring conservation...*”. Concerning high seas fishing, articles 117 and 118 of the LOS Convention provide for the duty to cooperate, either directly or through regional fisheries management organisations (RFMOs), in taking measures necessary for the stocks occurring in those areas.

The UNFSA Review Conference in 2006 affirmed that increasing adherence to the agreement is vital to promoting full implementation and achieving its objective. In the report to the Review Conference, it is indicated that some States, in particular developing coastal States, have not become parties to UNFSA owing to the misconception that it addresses conservation and management of stocks on the high seas only. Consequently some States seem to believe that UNFSA does not have any relevance to the conservation and management of fishery resources in their national waters.

UNFSA establishes a set of rights and obligations for States to conserve and manage fish stocks, associated and dependent species as well as to protect biodiversity in the marine environment. It sets out mechanisms for international cooperation, and identifies RFMOs as the mechanism through which States can fulfil their obligations to manage and conserve the stocks. States having a real interest in the fisheries concerned are encouraged by the agreement to become members of such RFMOs. It’s obvious that States fishing on the stocks as well as coastal States in which they occur have “a real interest”. Further it could be argued that port States involved in landings and transshipments of fish stocks have such an interest.

UNFSA provides for reinforcement of flag State duties concerning control over fishing vessels, and also contains enhanced compliance control mechanisms, including strengthened enforcement by flag States and port States. These latter duties are related to high seas fisheries, but it could be argued that they are becoming common standards relevant to all fishing operations. That aside, port States do have some obligations concerning vessels entering their ports carrying catches of the relevant stocks.

Although the main objective of UNFSA is related to the conservation and management of fish stocks occurring on the high seas, articles 5 (general principles), 6 (application of the precautionary approach) and 7 (compatibility of conservation and management measures) nevertheless apply to the conservation and management of fish stocks in areas under national jurisdiction. Thus these provisions are valid also to coastal States not involved in fishing on the high seas. The responsibilities of the coastal States are clearly stated in part V of the LOS Convention, and are further elaborated and reinforced in UNFSA, in particular articles 5, 6 and 7 that describe how to apply better management practices in waters under national jurisdiction. Consequently the agreement is highly relevant to all fishing nations, whether they are involved in fishing on the high seas or not.

UNFSA further recognises the special requirements of developing States in the conservation and management of straddling fish stocks and highly migratory fish stocks, whether they occur on the high seas or within national waters of coastal developing States. In 2003 the UN General Assembly established a fund to assist developing States in the implementation of the agreement. It should be noted that only parties to the agreement might utilize the fund. Financial support may be sought for: i) facilitating participation in meetings of RFMOs; ii) assisting with travel costs in relevant meetings of global organisations dealing with high seas fisheries; iii) supporting ongoing and future negotiations to establish new RFMOs, to renegotiate founding agreements and to strengthen existing RFMOs; iv) building capacity for effective exercise of flag State duties, MCS, data collection and scientific research; v) facilitating exchange of information and experience on the implementation of the Agreement; vi) assisting with human resources development, technical training and technical assistance in relation to conservation and management of the relevant stocks and development of fisheries for such stocks, consistent with the duty to ensure the proper conservation and management of such stocks; and vii) assisting in meeting costs involved in proceedings for the settlement of disputes.

Four of the five tuna RFMOs were established prior to the adoption of UNFSA. Their role is, however, significantly strengthened in UNFSA and RFMOs are today regarded as the appropriate mechanism for responding to the duties set out in the LOS Convention for cooperation in managing highly migratory fish stocks. So far, one new tuna RFMO (WCPFC) has been established and another is in the process of being replaced (IATTC/Antigua Convention), using UNFSA as a template for developing the convention texts. It should also be noted that many of the criteria used for the RFMO performance reviews were drawn from the principles set out in UNFSA. Further, since the adoption of UNFSA, the RFMOs have frequently been using the agreement as a basis for conservation and management measures of the stocks under their auspices. Consequently there is a clear linkage between membership in various RFMOs and acceptance of UNFSA, and RFMO members should also accede to UNFSA. A table showing all members of the tuna RFMOs that are non-Parties to UNFSA is attached (./).

In addition, below is a table showing the numbers of non-Parties to UNFSA in the tuna RFMOs, compared to the total number of members.

CCSBT	IATTC	ICCAT	IOTC	WCPFC
2/6	9/16	27/48	11/28	4/26

Members of tuna RFMOs that are non-Parties to UNFSA

	<i>CCSBT</i>	<i>IATTC</i>	<i>ICCAT</i>	<i>IOTC</i>	<i>WCPFC</i>
Albania			√		
Algeria			√		
Angola			√		
Cape Verde			√		
China			√	√	√
Colombia		√			
Comoros				√	
Cote d'Ivoire			√		
Croatia			√		
Ecuador		√			
El Salvador		√			
Egypt			√		
Equatorial Guinea			√		
Eritrea				√	
Gabon			√		
Ghana			√		
Guatemala		√	√		
Honduras			√		
Indonesia	√			√	
Libya			√		
Madagascar				√	
Malaysia				√	
Mauritania			√		
Mexico		√	√		
Morocco			√		
Nicaragua		√	√		
Nigeria			√		
Pakistan				√	
Peru		√			
Philippines				√	√
Sao Tome and Principe			√		
Sierra Leone			√		
St. Vincent & the Grenadines			√		
Syria			√		
Chinese Taipei	√				√
Tanzania				√	
Thailand				√	
Tunisia			√		
Turkey			√		
Vanuatu		√	√	√	√
Venezuela		√	√		