



**LDAC POSITION ON UNFSA 3rd SESSION REVIEW CONFERENCE
New York, 23-27 MAY 2016**

**EC TECHNICAL PREPARATORY MEETING WITH STAKEHOLDERS
Brussels, 28 April 2016**

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1. Measurement and management of global tuna fishing capacity

Since the last UNFSA resumed Review Conference in 2010, and despite its adopted recommendations, global tuna fishing capacity and effort have continued to increase globally. The continuous expansion of global tuna fishing capacity (including the proliferation of FADs) is at the root of most other issues for sustainable fisheries management: overfishing, illegal unregulated and undeclared (IUU) fishing, unfair competition between fleets, economic profitability for legal operators, etc.

Measurement criteria and data collected on fleet capacity are also not satisfactory. The submission of standardised fleet composition data (including tonnage in GT or/and storage volume in m³), as well as reliable and accurate data on fishing equipment and operations which have an influence on fishing capacity, such as the amount of gears, ancillary devices, technological support systems, freezing and carrying capacity, fishing time, etc. is a fundamental first step for measuring fishing capacity and effort and ultimately managing it.

Progress is also needed to develop fairer allocation systems of tuna resources. Developing coastal States have legitimate aspirations to establish their domestic catching and processing industries. However those aspirations are being jeopardised by overcapacity and over exploitation and must be matched with a high level of reporting of compliance in order to be sustainable. Any initiatives by developing States of allocating access beyond sustainable levels of exploitation or beyond their control capacities shall not be accepted.

2. Monitoring, control, surveillance and enforcement of fishing activities

- No data, no fish

The obligation to report accurate catch and effort data, as well as other data relevant to fisheries management is of fundamental importance. However, the lack of compliance with data reporting requirements is still widespread.

ICCAT has already a tuna observer programme in place and approved a recommendation for penalties that include a prohibition on the retention of species for which fleet and catch data has not been provided. Such recommendation should be expanded to other mandatory reporting requirements, such as effort and size composition of the catch. Other RFMOs should follow this principle and link allocation of quota to provision of required data.



- Incentives to ensure compliance

The lack of penalty regimes and adequate sanction and enforcement mechanisms continues to be a major weakness in most international fisheries. Compliance Committees of the RFMOs should have more weight, and strict penalties and sanction rules should be adopted to ensure level playing field between all fleets.

This should include, amongst others, quota penalties, trade sanctions, inclusion of vessels on a global RFMO “black list”, and the withdrawal of licenses of the vessels involved.

- Observer coverage

Observer coverage is generally insufficient. On the long term, there should be 100% independent observer coverage on board all large-scale purse seine fishing vessels and the optimum achievable for other fishing fleets which might have operational constraints, as an essential requirement to avoid under-reporting and misreporting. It is particularly important to have a regional observer programme with data coordinated and validated by the relevant RFMO. Regarding MCS systems, the installation and implementation of VMS with the right report frequency timing is strongly advised, together with the e-logbook. The validation of electronic monitoring systems with CCTV should be promoted in every RFMO as a way of improving observer coverage as a complementary tool even on vessels with difficult accessibility.

- At-sea transshipments

At-sea transshipments are a major source of IUU activities. This practice should be strictly prohibited for tuna and tuna-like fisheries, as it undermines fisheries control, catch reporting and data reliability. In the high seas or international waters where there is no RFMO, equivalent measures could be considered that ensure a high level of reporting and that no IUU fishing is taking place. This recommendation should be adopted consistently in all RFMOs with the inclusion of a transshipment certificate from the Coastal State to validate the access to markets. The end of at-sea transshipment will generate greater control of the fleet, economic return on the Coastal States port activities and improved scientific data through port sampling.

- Flag States should take their responsibilities seriously

The International Tribunal of the Law the Sea (ITLOS) delivered an important advisory opinion on a request submitted by the Sub-Regional Fisheries Commission on 2 April 2015¹. ITLOS stated that a flag State must adopt the necessary measures including legislation, regulations, and administrative practices, as well as enforcement steps to ensure that fishing vessels flying its flag are not involved in IUU fishing.

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https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.21/advisory_opinion/C21_AdvOp_02.04.pdf



The flag State must, for instance: prohibit fishing unless it is authorized by the Coastal State; ensure all its vessels are properly identified (e.g. through the IMO number); ensure its flagged vessels comply with protection and preservation measures of Coastal States; have enforcement mechanisms to monitor and secure compliance with its laws; have sanctions which are sufficient to deter serious infringements and to deprive benefits accruing from IUU fishing; and investigate reports of suspected IUU fishing and take appropriate action and report to the coastal State.

ITLOS advisory opinion also recalled the responsibilities of coastal States to cooperate with each other to establish effective management regimes, including the necessary coordination of their monitoring, control and surveillance mechanisms.

The Review Conference should consider the importance and relevance of this advisory opinion as well as other relevant international legal instruments such as the 1993 FAO Compliance Agreement, the 1995 FAO Code of Conduct for Responsible Fisheries and the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate IUU, and the 2014 FAO Voluntary Guidelines for Flag State Performance². It is key to reinforce both flag and coastal State responsibilities, as well as regarding the need for cooperation in the management of shared, straddling and highly migratory stocks, in particular small pelagics.

Last, Flag States must verify that their fishing vessels comply with international instruments of respect and observance of human, social and labour rights of the fish workers on board the vessels. It is recommended that ILO Convention 188 on Labour in the Fishing Sector, adopted in Geneva on 14 June 2007³, is ratified by signatory parties.

3. Port State control measures

To date 24 parties have ratified the FAO Port State Measures Agreement (PSMA) with possibility of this instrument to entry into force later this year. The UNFSA Review Conference should call on all signatory countries of the PSMA to ratify it at the shortest time possible and to achieve an effective implementation, as this is an essential tool for improving MCS and fighting against IUU fishing globally in a coordinated fashion. The Market States (namely EU, US and Japan) should bear an increased responsibility to lead by example and pursue this goal by putting pressure on the international fora.

² <http://www.fao.org/cofi/24005-0a794406c6747d10850eb7691593b6147.pdf>

³ http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188



4. Good governance, transparency and stakeholders' participation

- Transparency and access to information on fishing activities.

There is a growing demand for public accountability of both the decision-making process and the publication of the reports of the proceedings and the resulting adopted rules and regulations on management measures for fishing activities. In particular, progress has been made in making information on fishing activities available to RFMOs (ICCAT Recommendation on access agreements and on vessel chartering, the IOTC Resolution on access agreements, the WCPFC measure on a chartering notification scheme). Such efforts should be strengthened and all RFMOs should have a common set of Resolutions addressing transparency of fishing activities.

Data of crucial importance to scientific committees (such as VMS data or data from FADs) should be made available to the scientific community in a timely, standardised and consistent manner so it can be used for stock assessment and evaluations. An adequate balance will need to be struck with the confidentiality issues that might arise as a result of sharing sensitive information (e.g. present catch data or fleet activity in an aggregated manner).

- Transparency and participation of civil society organizations should be ensured

The principles of good governance and transparency in participation are embedded at the Rio+20 Declaration "*The future we want*"⁴ adopted at the UN Conference on Sustainable Development held in 2012.

For fisheries management, some of the key areas where transparency is weakest include closed meetings and closed negotiations outside of a public RFMO meeting (this is the case of WCPFC, for example). At ICCAT it is becoming common that draft proposals for recommendations submitted for consideration by the Commission, are not made public until the last days of the meeting, while negotiations on their content only take place among delegations, rather than in plenary sessions open to observers. NAFO however is a good example of transparency throughout the negotiations and interim reporting and dialogue takes place between delegations of contracting parties, scientists and stakeholders.

Increased stakeholders' participation and engagement in the process is an important issue that should also be discussed at the upcoming UNFSA resumed Review Conference.

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⁴ <http://www.uncsd2012.org/thefuturewewant.html>