



The Ecosystem Approach: its Mandate and Implementation

28 August, 2007

INTRODUCTION

This brief note outlines the mandate for the implementation of the ecosystem approach and describes its implementation to date in various multilateral environmental agreements (MEAs) and regional fisheries management organizations (RFMOs). It is intended to underline the need for it to be expressly incorporated in the objectives of the South Pacific RFMO Convention, as is suggested in the draft Revision 2 text.¹

Independent Panel Report

The report of an independent panel to develop a model for improved governance by regional fisheries management organisations, expressly stated that:

The current best practice is for the RFMO to have explicit, overarching objectives that address the full range of outcomes and management approaches in hard and soft law agreements relating to sustainable fishing. The objectives explicitly include ...use of the best available science and the application of the precautionary approach and the ecosystem approach in decision-making.”²

JPOI

The Johannesburg Plan of Implementation (JPOI)³ stated that “[e]nsuring the sustainable development of the oceans requires effective coordination and co-operation, including at the global and regional levels, between relevant bodies, and actions at all levels to: (d) encourage the application by 2010 of the ecosystem approach, noting the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decision 5/6 of the Conference of Parties to the Convention on Biological Diversity.”

¹ A longer discussion is contained in a paper by the same author for WWF in February, “Ecosystem-Based Management in Multilateral Environmental Agreements: Progress towards Adopting the Ecosystem Approach in the International Management of Living Marine Resources.” Duncan E.J. Currie, *Ecosystem-Based Management in Multilateral Environmental Agreements: Progress towards Adopting the Ecosystem Approach in the International Management of Living Marine Resources* (2007), at <http://globelaw.com/Whales/Currie%20Ecosystem%20Approach%20Paper%20for%20IWC.pdf>.

² Michael W. Lodge, David Anderson, Terje Lobach, Gordon Munro, Keith Sainsbury, Anna Willock, *Recommended Best Practices for Regional Fisheries Management Organizations: Report of an independent panel to develop a model for improved governance by Regional Fisheries Management Organizations*, 2007, page 21 at <http://www.chathamhouse.org.uk/publications/papers/view/-/id/523/> and http://www.chathamhouse.org.uk/publications/papers/download/-/id/523/file/10372_rfmo0807.pdf.

³ World Summit on Sustainable Development, Johannesburg Plan of Implementation, A/Conf.199/20, (JPOI), para. 29, and see paras. 31 and 64.

Review of Fish Stocks Agreement

The four year review conference of the Fish Stocks Agreement was held in May 2006.⁴ The Review Conference recommended that States individually and collectively through RFMOs enhance understanding of ecosystem approaches and commit themselves to incorporating ecosystem considerations in fisheries management, including actions to conserve associated and dependent species and to protect habitats of specific concern, taking into account existing FAO guidelines, and request FAO to continue its work on the subject, as appropriate.

The Review Conference specifically agreed to recommend that States individually and collectively through RFMOs continue on an urgent basis to strengthen the mandates of, and measures adopted by, RFMOs to implement modern approaches to fisheries management as reflected in the FSA and other relevant international instruments, including relying on the best scientific information available and application of the precautionary approach, and incorporating an ecosystem approach into fisheries management.⁵ As such this is a clear and recent mandate from the FSA Review Conference to incorporate the ecosystem approach in the SP RFMO text.

Sustainable Fisheries Resolution

The ecosystem approach was mandated most recently in the 2006 Sustainable Fisheries Resolution,⁶ which recites that

“PP21. *Recognizing* also the importance of applying ecosystem approaches to oceans management and the need to integrate such approaches into fisheries conservation and management; and, in this regard, welcoming the report of the Seventh Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, held in New York from 12 to 16 June 2006,

OP5. *Calls upon* all States, directly or through regional fisheries management organizations and arrangements, to apply widely, in accordance with international law and the Code, the precautionary approach and an ecosystem approach to the conservation, management and exploitation of fish stocks, including straddling fish stocks, highly migratory fish stocks, and discrete high seas fish stocks, and also *calls upon* States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

OP6. *Encourages* States to increase their reliance on scientific advice in developing, adopting and implementing conservation and management measures, and to increase their efforts to promote science for conservation and

⁴ See Report of the Review Conference on the 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, 5 July 2006, A/CONF.210/2006/15, at http://www.un.org/depts/los/convention_agreements/review_conf_fish_stocks.htm and report at <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/CONF.210/2006/15&Lang=E>.

⁵ FSA Review Conference Report para. 18(d). As FSA Review Conference Report para. 32(a).

⁶ A/RES/61/105 - Sustainable fisheries, including through the 1995 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, and related instruments, at http://www.un.org/depts/los/general_assembly/general_assembly_resolutions.htm and <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/RES/61/105&Lang=E>.

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management measures that apply, in accordance with international law, the precautionary approach and an ecosystem approach to fisheries management, enhancing understanding of ecosystem approaches, in order to ensure the long-term conservation and sustainable use of marine living resources, and, in this regard, *encourages* the implementation of the FAO International Strategy for Improving Information on Status and Trends of Capture Fisheries as a framework for the improvement and understanding of fishery status and trends;

OP7. *Also encourages also* States to apply the precautionary approach and an ecosystem approach in adopting and implementing conservation and management measures addressing, *inter alia*, by-catch, pollution, overfishing, and protecting habitats of specific concern, taking into account existing guidelines developed by the Food and Agriculture Organization of the United Nations;

OP70. *Urges* further efforts by regional fisheries management organizations and arrangements, as a matter of priority, in accordance with international law, to strengthen and modernize their mandates and the measures adopted by such organizations or arrangements, to implement modern approaches to fisheries management as reflected in the Agreement and other relevant international instruments relying on the best scientific information available and application of the precautionary approach, and incorporating an ecosystem approach to fisheries management and biodiversity considerations, where these aspects are lacking, to ensure that they effectively contribute to long term conservation and management and sustainable use of marine living resources;

OP72. *Urges* regional fisheries management organizations and arrangements to improve transparency and to ensure that their decision-making processes are fair and transparent, rely on best scientific information available, incorporate the precautionary approach and ecosystem approaches, address participatory rights, including through, *inter alia*, the development of transparent criteria for allocating fishing opportunities which reflects, where appropriate, the relevant provisions of the Agreement, taking due account, *inter alia*, of the status of the relevant stocks and the respective interests in the fishery, and strengthen integration, coordination and cooperation with other relevant fisheries organizations, regional seas arrangements and other relevant international organizations;

OP76. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decision VII/11 and other relevant decisions of the Conference of the Parties to the Convention on Biological Diversity, notes the work of the Food and Agriculture Organization of the United Nations related to guidelines for the implementation of the ecosystem approach to fisheries management, and also notes the importance to this approach of relevant provisions of the Agreement and the Code;

OP80. *Calls upon* States to take action immediately, individually and through regional fisheries management organizations and arrangements, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and protect vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals, from destructive

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fishing practices, recognizing the immense importance and value of deep sea ecosystems and the biodiversity they contain;

OP83. *Calls upon* regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to adopt and implement measures, in accordance with the precautionary approach, ecosystem approaches and international law, for their respective regulatory areas as a matter of priority, but not later than December 31, 2008: [etc]

These are very clear references and a clear mandate for the ecosystem approach to be expressly incorporated in the convention of the SP RFMO.

The FAO Technical Guidelines

The FAO Technical Guidelines⁷ provide support for the implementation of the FAO Code of Conduct for Responsible Fisheries. The ecosystem approach to fisheries “strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecological meaningful boundaries.”⁸ EAF requires greater reliance on the precautionary approach, since uncertainties will be more diverse than under single-species fisheries management.⁹

DEFINING THE ECOSYSTEM APPROACH

CBD Decision V/6¹⁰ described the ecosystem approach in the following way: “The ecosystem approach is based on the application of appropriate scientific methodologies focused on levels of biological organization which encompass the essential processes, functions and interactions amongst organisms and their environment. The ecosystem approach recognizes that humans, with their cultural diversity, are an integral component of ecosystems.”¹¹

The OSPAR and HELCOM Joint Ministerial Meeting defined the ecosystem approach as “the comprehensive integrated management of human activities based on the best available scientific knowledge about the ecosystem and its dynamics, in order to identify and take action on influences which are critical to the health of marine ecosystems, thereby achieving sustainable use of ecosystem goods and services and maintenance of ecosystem integrity”.¹² Note the goal: the sustainable use of ecosystem goods and services and the maintenance of ecosystem integrity.

⁷ FAO Technical Guidelines for Responsible Fisheries 4, Supplement 2, Fisheries Management: The ecosystem approach to fisheries (2003), (“FAO Guidelines”), at http://www.fao.org/documents/pub_dett.asp?lang=en&pub_id=127549.

⁸ FAO Guidelines, Page 14 and Executive Summary, 6.

⁹ FAO Guidelines, 22.

¹⁰ CBD Decision V/6, the Ecosystem Approach, Part B, at <http://www.biodiv.org/decisions/default.asp?lg=0&m=cop-05&d=06>.

¹¹ This substantially reflected the 1998 description given in the “Report of the Workshop on the Ecosystem Approach, Lilonge, Malawi, 26-28 January, 1998,” 20 March 1998, UNEP/CBD/COP/4/Inf.9, Para. 8 at <http://www.biodiv.org/doc/meetings/cop/cop-04/information/cop-04-inf-09-en.pdf>.

¹² Statement on the Ecosystem Approach to the Management of Human Activities by first Joint Ministerial Meeting of the Helsinki and Ospar Commissions, “Towards an ecosystem approach to the management of human activities,” Bremen, 25-26 June 2003, at <http://www.helcom.fi/stc/files/BremenDocs/JointEcosystemApproach.pdf>.

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The CBD cited 12 principles of the ecosystem approach in its Decision V/6:

1. The objectives of management of land, water and living resources are a matter of societal choice.
2. Management should be decentralized to the lowest appropriate level.
3. Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.
4. Recognizing potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context.
5. Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the ecosystem approach.
6. Ecosystems must be managed within the limits of their functioning.
7. The ecosystem approach should be undertaken at the appropriate spatial and temporal scales.
8. Recognizing the varying temporal scales and lag-effects that characterize ecosystem processes, objectives for ecosystem management should be set for the long term.
9. Management must recognize that change is inevitable.
10. The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.
11. The ecosystem approach should involve all relevant sectors of society and scientific disciplines.
12. Information from all sources is critical to arriving at effective ecosystem management strategies.

At the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP)¹⁵ there was extensive discussion of the ecosystem approach. ICP noted that:

6. While there is no universally agreed definition of an ecosystem approach, which is interpreted differently in different contexts, it was proposed that the General Assembly, invite States to consider that an ecosystem approach should, inter alia:

¹³ CBD Decision V/6, the Ecosystem Approach, Part B, at <http://www.biodiv.org/decisions/default.asp?lg=0&m=cop-05&d=06>.

¹⁴ This substantially reflected the 1998 description given in the “Report of the Workshop on the Ecosystem Approach, Lilonge, Malawi, 26-28 January, 1998,” 20 March 1998, UNEP/CBD/COP/4/Inf.9, Para. 8 at <http://www.biodiv.org/doc/meetings/cop/cop-04/information/cop-04-inf-09-en.pdf>.

¹⁵ See Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its seventh Meeting, July 17 2006, Part A of the Report, A/61/156, at <http://www.un.org/Docs/journal/asp/ws.asp?m=A/61/156> (‘ICP Report’).

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- (a) Emphasize conservation of ecosystem structures and their functioning and key processes in order to maintain ecosystem goods and services;
- (b) Be applied within geographically specific areas based on ecological criteria;
- (c) Emphasize the interactions between human activities and the ecosystem and among the components of the ecosystem and among ecosystems;
- (d) Take into account factors originating outside the boundaries of the defined management area that may influence marine ecosystems in the management area;
- (e) Strive to balance diverse societal objectives;
- (f) Be inclusive, with stakeholder and local communities' participation in planning, implementation and management;
- (g) Be based on best available knowledge, including traditional, indigenous and scientific information and be adaptable to new knowledge and experience;
- (h) Assess risks and apply the precautionary approach;
- (i) Use integrated decision-making processes and management related to multiple activities and sectors;
- (j) Seek to restore degraded marine ecosystems where possible;
- (k) Assess the cumulative impacts of multiple human activities on marine ecosystems;
- (l) Take into account ecological, social, cultural, economic, legal and technical perspectives;
- (m) Seek the appropriate balance between, and integration of, conservation and sustainable use of marine biological diversity; and
- (n) Seek to minimize adverse impacts of human activities on marine ecosystems and biodiversity, in particular rare and fragile marine ecosystems.

A brief recital and/or description of the inclusion of the ecosystem approach in various MEAs and RFMOs follows.

COMPARISON OF CONVENTIONS

FISH STOCKS AGREEMENT¹⁶

Article 5 of the Fish Stocks Agreement (FSA) introduced a specific requirement to protect biodiversity in the marine environment.¹⁷ Article 5 also requires States to minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, specifically including non-fish species, and impacts on associated or dependent species, in particular endangered

¹⁶ 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, entered into force 11 December 2001, 1542 A/CONF.164/37, ("FSA"), at http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm

¹⁷ FSA Article 5(g)

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species.¹⁸ Measures included are the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.¹⁹

The FSA introduced requirements implementing the ecosystem approach, including in its general principles:

- requiring States to adopt measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization,²⁰
- ensuring that such measures are based on the best scientific evidence available, and that the interdependence of stocks is taken into account,²¹
- assessing the impacts of fishing on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks,²²
- adopting conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened.²³
- Minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including the development and use of selective, environmentally safe and cost-effective fishing gear and techniques, and protect biodiversity in the marine environment.

Non-fishing impacts are also addressed: if a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States are to adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact.²⁴

As noted, the four year review conference of the Fish Stocks Agreement held in May 2006 recommended that States individually and collectively through RFMOS enhance understanding of ecosystem approaches and commit themselves to incorporating ecosystem considerations in fisheries management, including actions to conserve associated and dependent species and to protect habitats of specific concern, taking into account existing FAO guidelines, and request FAO to continue its work on the subject, as appropriate.²⁵

¹⁸ FSA Article 5(f)

¹⁹ FSA Article 5(f)

²⁰ FSA Article 5(a)

²¹ FSA Article 5(b)

²² FSA Article 5(d)

²³ FSA Article 5(e)

²⁴ FSA Article 6(7).

²⁵ FSA Review Conference Report para. 18(d). As a proposed means of strengthening the Agreement, the Review Conference agreed to recommend that States individually and collectively through RFMOs continue on an urgent basis to strengthen the mandates of, and measures adopted by, RFMOs to implement modern approaches to fisheries management as reflected in the FSA and other relevant international instruments, including relying on the best

FAO CODE OF CONDUCT²⁶

The Code sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity.²⁷

The Code of Conduct includes many elements of the ecosystem approach, including the obligation to conserve aquatic ecosystems,²⁸ protection and rehabilitation of critical fisheries habitats,²⁹ and monitoring the impacts of ecosystem changes resulting from fishing pressure, pollution or habitat alteration.³⁰ The Code also promotes the need to assess the impacts of environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks, and assess the relationship among the populations in the ecosystem.³¹ Also included are ensuring the conservation of species belonging to the same ecosystem or associated with or dependent upon the target species,³² taking account of traditional knowledge and environmental, economic and social factors,³³ minimizing waste, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species.³⁴

Biodiversity Convention (CBD):³⁵

Article 1. Objectives

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

The CBD defines “Biological diversity” to mean the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.³⁶

scientific information available and application of the precautionary approach, and incorporating an ecosystem approach into fisheries management. FSA Review Conference Report para. 32(a).

²⁶ FAO Code of Conduct for Responsible Fisheries, at <http://www.fao.org/fi/agreem/codecond/ficonde.asp>.

²⁷ FAO Code of Conduct, Introduction.

²⁸ FAO Code of Conduct, para. 6.1.

²⁹ FAO Code of Conduct, para. 6.8.

³⁰ FAO Code of Conduct, para. 12.5.

³¹ FAO Code of Conduct, para. 7.2.3.

³² FAO Code of Conduct, para. 6.2.

³³ FAO Code of Conduct, para. 6.4.

³⁴ FAO Code of Conduct para. 6.6.

³⁵ Convention on Biological Diversity, concluded at Rio de Janeiro on 5 June 1992, entered into force 29 December 1993, at 31 ILM 818, (“CBD”) at <http://www.biodiv.org/convention/default.shtml>.

³⁶ CBD Article 2.

Biosafety Protocol³⁷

Article I Objective

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

CMS/Bonn Convention³⁸

Article II Fundamental Principles

1. The Parties acknowledge the importance of migratory species being conserved and of Range States agreeing to take action to this end whenever possible and appropriate, paying special attention to migratory species the conservation status of which is unfavourable, and taking individually or in co-operation appropriate and necessary steps to conserve such species and their habitat.

2. The Parties acknowledge the need to take action to avoid any migratory species becoming endangered.

3. In particular, the Parties:

a) should promote, co-operate in and support research relating to migratory species;

b) shall endeavour to provide immediate protection for migratory species included in Appendix I; and

c) shall endeavour to conclude Agreements covering the conservation and management of migratory species included in Appendix II.

International Watercourses

The Convention on the Law of the Non-navigational Uses of International Watercourses³⁹ requires watercourse States to protect and preserve the ecosystems of international watercourses.⁴⁰

³⁷ Cartagena Protocol on Biosafety. Concluded at Montreal on 29 January 2000. Text is at <http://www.biodiv.org/doc/legal/cartagena-protocol-en.pdf>. Parties at <http://www.biodiv.org/biosafety/signinglist.aspx>.

³⁸ Convention on the Conservation of Migratory Species of Wild Animals, signed in Bonn 23 June 1979, entered into force 1 November 1983, 19 ILM (1980) 15, text at http://www.cms.int/documents/convtxt/cms_convtxt.htm and http://www.cms.int/pdf/convtxt/cms_convtxt_english.pdf. List of 97 Parties as of 1 May 2006 at http://www.cms.int/pdf/en/party_list/Partylist_eng.pdf. Japan and Iceland are not parties.

³⁹ Convention on the Law of the Non-navigational Uses of International Watercourses, concluded at New York on 21 May 1997, not in force, 36 ILM (1997), 719, at http://untreaty.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf. Status at http://www.internationalwaterlaw.org/IntlDocs/Watercourse_status.htm.

⁴⁰ International Watercourse Convention article 20. Article 22 requires Watercourse States to take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in significant harm to other watercourse States. See Owen McIntyre, "The emergence of an 'ecosystem approach' to the protection of international watercourses under international law," 13 *RECIEL* (2004), 1-14, at <http://www.blackwell-synergy.com/doi/abs/10.1111/j.1467-9388.2004.00379.x>.

CCAMLR⁴¹

Article II

1. The objective of this Convention is the conservation of Antarctic marine living resources.
2. For the purposes of this Convention, the term "conservation" includes rational use.
3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:
 - (a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;
 - (b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above; and
 - (c) prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

ACAP⁴²

Article II Objective and Fundamental Principles

1. The objective of this Agreement is to achieve and maintain a favourable conservation status for albatrosses and petrels.
2. The Parties shall take measures, both individually and together, to achieve this objective.
3. In implementing such measures the Parties shall widely apply the precautionary approach. In particular, where there are threats of serious or irreversible adverse impacts or damage, lack of full scientific certainty shall not be used as a reason for postponing measures to enhance the conservation status of albatrosses and petrels.

⁴¹ CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES, Canberra, 20 May 1980

⁴² Agreement on the Conservation of Albatross and Petrels Agreement, concluded at Cape Town on 19 June 2001, entered into force 1 February 2004. Text at http://www.acap.aq/acap/text_of_the_agreement/agreement_on_the_conservation_of_albatross_and_petrels

Madrid Protocol⁴³

Article 2 Objective and Designation

The Parties commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems and hereby designate Antarctica as a natural reserve, devoted to peace and science.

SEAFO⁴⁴

Article 2 Objective

The objective of the Convention is to ensure the long-term conservation and sustainable use of the fishery resources in the Convention Area through the effective implementation of the Convention.

Article 3 General principles

In giving effect to the objective of this Convention, the Contracting Parties, where appropriate through the Organisation, shall, in particular:

- (a) adopt measures, based on the best scientific evidence available, to ensure the long term conservation and sustainable use of the fishery resources to which this Convention applies;
- (b) apply the precautionary approach in accordance with Article 7;
- (c) apply the provisions of this Convention relating to fishery resources, taking due account of the impact of fishing operations on ecologically related species such as seabirds, cetaceans, seals and marine turtles;
- (d) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem as, or associated with or dependent upon, the harvested fishery resources;
- (e) ensure that fishery practices and management measures take due account of the need to minimise harmful impacts on living marine resources as a whole; and
- (f) protect biodiversity in the marine environment.

SIOFA⁴⁵

Article 2 – Objectives

The objectives of this Agreement are to ensure the long term conservation and sustainable use of the fishery resources in the Area through cooperation among the Contracting Parties, and to promote the sustainable development of fisheries in the Area, taking into account the needs of

⁴³ Protocol on Environmental Protection to the Antarctic Treaty, opened for signature on 4 October 1991, entered into force 14 January 1998, at 30 ILM 1461 (1991), (Madrid Protocol) at <http://www.ats.aq/uploaded/PROTOCOL.pdf> and annexes, and copy at http://www.antarctica.ac.uk/About_Antarctica/Treaty/protocol.html.

See DR Rothwell, "Polar environmental protection and international law: the 1991 Antarctic Protocol," *European Journal of International Law* 2000 11(3):591-614, Duncan French, "Sustainable Development and the 1991 Madrid Protocol to the 1959 Antarctic Treaty: The Primacy of Protection in a Particularly Sensitive Environment," 2:3 *Journal of International Wildlife Law & Policy* (1999), 291, and Christopher Joyner, "The 1991 Madrid Environmental Protection Protocol: Contributions to marine pollution law," 20:3 *Marine Policy* (1996), 183-197.

⁴⁴ Convention for the Conservation and Management of Fisheries Resources in the South East Atlantic Ocean (SEAFO Convention) signed at Windhoek, 20 April 2001. Signatories include Angola, South Africa, Namibia and the United Kingdom (on behalf of St Helena and its dependencies of Tristan da Cunha and Ascension Island) and Iceland, Norway, Republic of Korea, United States of America and the European Community. Entered into force 13 April 2003. Text is at <http://www.mfmr.gov.na/seafo/seafotext.htm>. <http://www.mfmr.gov.na/seafo/seafo.htm>. See map at <http://www.dfo-mpo.gc.ca/fgc-cgp/documents/meltzer/maps/SEAFO.pdf>.

⁴⁵ See FAO, New agreement governing high-seas fishing in Indian Ocean, 12 July, 2006, at <http://www.fao.org/newsroom/en/news/2006/1000360/index.html>.

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developing States bordering the Area that are party to this Agreement, and in particular the least-developed among them and small island developing States.

Article 4 – General Principles

- a) measures shall be adopted on the basis of the best scientific evidence available to ensure the long term conservation of fishery resources, taking into account the sustainable use of such resources and implementing an ecosystem approach to their management;

NEAFC⁴⁶

Has said it will amend its convention in light of developments in international law with respect to biodiversity, ecosystem and precautionary approaches.⁴⁷

IATTC

2003 Antigua Convention,⁴⁸ which will replace the 1949 Convention, does have the objective of to ensure the long-term conservation and sustainable use of the fish stocks covered by the Convention, in accordance with the relevant rules of international law.⁴⁹

NAFO⁵⁰

Following the Annual Meeting in September 2006, NAFO is now reportedly committed to an ecosystem approach which will be reflected in the Convention,⁵¹

GFCM

The General Fisheries Commission for the Mediterranean (GFCM)⁵² Subcommittee on the Marine Environment and Ecosystem (SCMEE) held a workshop on the ecosystem approach in September 2005.⁵³

⁴⁶ Convention on Future Multilateral Co-operation in North-East Atlantic Fisheries, signed on 18 November 1980, entered into force 17 March 1982, at <http://www.neafc.org/footable/docs/Convention.pdf> ('NEAFC Convention'). See map at <http://www.dfo-mpo.gc.ca/fgc-cgp/documents/meltzer/maps/NEAFC.pdf>.

⁴⁷ See NEAFC Press Release, 21 November 2005, at http://www.neafc.org/news/docs/2005-press-release_final.pdf. NEAFC's 25th Annual Meeting is scheduled for 13-17 November, 2006 in London.

⁴⁸ Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States Of America and the Republic Of Costa Rica, adopted June 23, 2003, in Antigua, Guatemala ("Antigua Convention"), at <http://www.iattc.org/IATTCdocumentationENG.htm>. The Convention will enter into force 15 months after the deposit of the seventh instrument of ratification or accession of the Parties to the 1949 Convention: Article XXXI.1. There were in February 2007 five parties stated to have ratified the Convention. See <http://www.iattc.org/IATTCdocumentationENG.htm>.

⁴⁹ Antigua Convention, Article II.

⁵⁰ Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa, 24 October 1978, entered into force on 1 January 1979, at http://www.nafo.ca/About/MANDATE/Convention_2003.exe. Website is at <http://www.nafo.ca>. See map of coverage at <http://www.dfo-mpo.gc.ca/fgc-cgp/documents/meltzer/maps/NAFO.pdf>

⁵¹ See NAFO Press Release, 22 September 2006, 'NAFO Reform in Full Swing,' at <http://www.nafo.int/about/media/press/press06.pdf>.

⁵² 1949 Agreement for the establishment of a General Fisheries Council for the Mediterranean, signed at Rome 24 September 1949, entered into force 20 February 1952, as amended in 1963, 1976 and 1997. 1997 Amendment entered into force 29 April 2004 extending its application to the Black Sea. Text at http://www.fao.org/fi/body/rfb/GFCM/gfcm_basic.htm. See webpage at

Incorporation of the Ecosystem Approach

NPAFC⁵⁴

The object of the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean is to promote the conservation of anadromous stocks⁵⁵ in the North Pacific Convention Area.⁵⁶ The Commission⁵⁷ may consider matters related to the conservation of ecologically related species in the Convention Area.⁵⁸

DEJ Currie
29 August, 2007

http://www.fao.org/fi/body/rfb/gfcm/gfcm_home.htm. See map at <http://www.dfo-mpo.gc.ca/fgc-cgp/documents/meltzer/maps/GFCM.pdf>.

⁵³ See SCMEE Transversal Workshop on Ecosystem Approach to Fisheries, 7-9 September 2005, at http://www.cmima.csic.es/pub/scmee/EAF_2005/EAF_2005_report.pdf.

⁵⁴ The Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, adopted at Moscow 11 February 1992, entered into force 16 February 1993, text at <http://www.oceanlaw.net/texts/npas.htm>. Parties are the United States, Russia, Japan, Canada and South Korea, the primary states of origin for salmon stocks in the North Pacific. See http://www.npafc.org/new/about_convention.html. The last meeting of the Commission, the fourteenth, was held in Vancouver on 23-27 October 2006. The next meeting is in Vladivostok in October 2007. NPAFC News Release, 24th Meeting, 2006, Vancouver, BC 2006 October 23-27, at http://www.npafc.org/new/about/News_annual_meeting2006.pdf.

⁵⁵ Pink salmon accounted for 50% of the catch by weight in 2005, followed by chum, sockeye, coho, Chinook and cherry (masu) salmon. See NPAFC News Release, 24th Meeting, 2006, Vancouver, BC 2006 October 23-27, at http://www.npafc.org/new/about/News_annual_meeting2006.pdf.

⁵⁶ Article VIII.2.

⁵⁷ Website at <http://www.npafc.org/new/index.html>.

⁵⁸ Article VIII.3.

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