



Sustainable Development

ROUND TABLE ON SUSTAINABLE DEVELOPMENT

CHAIRMAN'S SUMMARY NOTE OF THE 6 JUNE 2003 MEETING OF THE ROUND TABLE ON SUSTAINABLE DEVELOPMENT

The Sustainable Development of Global Fisheries, with Particular Reference to Enforcement [against Illegal, Unreported and Unregulated Fisheries] on the High Seas.

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The Eleventh Meeting of the Round Table on Sustainable Development at the OECD
was held on
Friday 6 June 2003 at 9.30 a.m. in Room 2, OECD New Building

The following is a short summary note (issued under the Chairman's responsibility) of the discussion on 6 June. Please note that in keeping with Round Table procedures a detailed note of the meeting will not be circulated.

The meeting's focus was on how to prevent and penalise illegal, unreported and unregulated (IUU) fishing on the high seas. The meeting considered three inter-related aspects: *legal issues*; *economic issues*; and the issue of *political will*. The following were the main points arising from the discussion:

Legal Issues

- Several international organisations have some level of involvement in work which affects efforts to address IUU fishing. The complex and evolving web of binding and non-binding international instruments adopted by international organisations or regional fisheries management bodies has changed the nature and the location of IUU fishing, but failed to stop it completely.
- There is no all-encompassing globally enforceable regime to prevent IUU fishing. The current patchwork quilt of measures with differing geographical and legal reach is insufficient. An important obstacle remains, i.e. that while there are numerous legal instruments to address the problem of IUU activity few have been ratified and implemented by sufficient countries to make an impression on the activity.
- Often the effect of a legal instrument is to displace IUU activity to areas where the instrument's authority does not apply. What is required is a coordinated ratification *and* implementation of all international legal agreements and a greater uptake of regional initiatives. A good starting point would be the national implementation of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)
- Human rights, security, terrorism, maritime safety, crew conditions and the trade in weapons and narcotics among others are all potential angles from which to tackle the issue of IUU fishing. More needs to be done to pursue these alternative approaches as a way of highlighting the way in which IUU activity intersects with other legal or illegal activities. Furthermore, the transshipment of IUU product is often done as an illegal activity. Improving national and international coordination between fishery enforcement agencies and other enforcement agencies (narcotics, terrorism etc) can therefore assist in tackling a broader range of illegal activity on the high seas.
- International attention on some of the legal issues exposed by IUU activity has intensified as a result of the recent oil tanker disaster off the coast of Spain and the 11 September terrorist attack. The 2003 Evian G8 Summit included discussion of the need to reduce the threat posed by excessive exploitation of marine resources and tanker safety. This acknowledgement of the problem may help leverage greater attention on IUU activity.

- Ensuring transparency is a prerequisite to any solution to the problem of IUU fishing. Vessels engaged in such activity benefit from the opaque rules covering their activities. These include the question of a 'genuine link' between vessels and the flag they are flying and the lack of legal enforcement provisions governing the high seas.
- The concept of 'genuine link' between IUU vessels and the flags they use is a highly contentious issue since it goes to the heart of international law as it relates to the High Seas. While everyone agrees that flag states should have effective control over ships that fly their flags there is no agreement on what sanctions should apply if the lack of a genuine link negates effective control. The issue is unlikely to be resolved in the near future.
- Countries also need to do more to penalise their nationals engaged in IUU activity. Consideration of extra-territorial application of domestic legislation is one way forward. A small minority of countries already have such legislation in place. Prosecution is complicated but possible and worth pursuing for the signal it sends.
- The issue of port-state authority and flags of convenience is crucial. More needs to be done, for instance, to ensure that services provided by ports are blocked to IUU vessels. Greater transparency and sharing of information about known IUU vessels would also assist in this regard.
- Transparency in vessel registration is one possible way of addressing the flags of convenience problem. Current practice is confused and complicated. Political and economic interests intersect to prevent clarity on registration. Specifically, there is an urgent need to begin 'black listing' and 'white listing' fishing vessels. In the meantime, international standardisation of vessel registration processes would be an important first contribution. Sharing information about vessel registration at the global and regional level is also an important means of affecting IUU activities.
- Non-governmental organisations and other stakeholders may play an important role in highlighting the lack of transparency in vessel registration. This could assist in generating the political will to combat the problem of IUU fishing.

Economic Issues

- All countries need to address the role of subsidies and similar incentives that encourage over-capacity. The displacement of fleets from OECD member states' waters, with or without the help of subsidies, to fisheries in developing countries, is a significant problem which encourages the expansion of IUU activities with negative implications for global fish stocks.
- IUU fishing is unquestionably profitable. The relatively low marginal cost and high prices for IUU fish are key factors that sustain the activity. Often IUU catches are pre-sold before a vessel begins fishing. An important element in any effort to end IUU fishing will be to ensure enforcement at all levels of transactions, not just those on the water.

- Closing markets to IUU product is important, but difficult to achieve. Eco-labelling, DNA tracing, catch documentation schemes and other trade measures can assist. Given the rise of 'laundered' catch certificates, however, and other loopholes to enter high value markets, these measures can only be part of the solution to ensure the elimination of IUU fishing.
- Economic penalties for IUU fishing are too insignificant to bother those engaged in the activity. Bigger fines, active vessel confiscation *and* destruction as well as imprisonment for the more egregious offenders are an urgent necessity.
- Identifying the weakest link in the economic chain supporting IUU fishing is difficult. Notwithstanding this, many of the most important decisions on IUU fishing are made by multinational enterprises (MNEs). The OECD Guidelines for MNEs may be one instrument to help persuade MNEs not to support IUU activities by, for instance, denying them port access, insurance services and so on. Corporate responsibility for the sustainable development of global fish stocks is also an important component in addressing IUU activity.
- Economic instruments need to be supplemented by the technical means to ensure enforcement. Greater use of VMS, satellite tracking and a closer relationship between scientific researchers and enforcement experts is required. Moreover, an expansion of the use of forensic accounting to catch IUU activities is required. In this regard, countries should do more to support the pooling/sharing of skilled officers through Regional Fisheries Organisations.

Political Will

- A significant proportion of global fisheries are managed by developing countries. This poses particular challenges as these countries often do not have the means for proper surveillance and enforcement of their fishing zones. Moreover, when developing countries' EEZs are contiguous to the high seas fisheries, greater assistance to developing countries to address IUU activity is likely to improve the overall prospects of the survival of the global fishery. Assistance to developing countries to enforce IUU-related legislation, including the technological means to do so is therefore urgently needed.
- Greater domestic coordination is needed to ensure that a coherent and effective response is developed at the international level towards IUU fishing. International organisations often face difficulties in ensuring a coordinated approach, not least because national positions are not fully coordinated.
- A fundamental political problem is that the 'wrong' Ministers attend meetings which, while not ostensibly about IUU fishing, have an impact on IUU activity. IMO meetings with their focus on transport-related matters, for instance, rarely attract attention from Fisheries Ministers and their officials.
- The lack of international political will to implement the legal instruments which could reduce and possibly end IUU activity remains a pressing problem. Notwithstanding this, the international outlook (G8 Summit, recent oil tanker disasters etc) suggests that, at the political level, the prospects for progress are better than they have been.