

## Reconciling the unreconcilable

**The FAO's proposed Code of Conduct for Responsible Fishing will have to balance responsible fisheries with national self-interests**

**W**hat was meant to be a Technical Consultation turned out, instead, to be a round of intractable negotiations and horse-trading between two apparently irreconcilable interest groups: distant-water and coastal fishing nations.

Thanks to the United Nations Convention on the Law of the Sea (UNCLOS), the latter countries now have jurisdiction over 80 to 90 per cent of global fish stocks, while the former are increasingly being squeezed out of fishing altogether.

Conceived in Rome in 1991 at the meeting of the FAO Committee on Fisheries (COFI), a Code of Conduct for Responsible Fishing was given the official seal of approval by the Declaration of Cancun in May 1992. Following the International Conference on Responsible Fishing, co-hosted by the Mexican Government and the FAO, 66 countries endorsed this declaration and proposed that FAO take the lead in developing a Code of Conduct for Responsible Fishing.

The Cancun Declaration defines responsible fishing as: *'the sustainable utilization of fisheries resources in harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality; the incorporation of added value to such products through the transformation processes meeting the required sanitary standards; the conduct of commercial practices so as to provide consumers access to good quality products.'*

From 26 September to 5 October 1994, the FAO played host to a Technical Consultation to review a preliminary draft of the Code of Conduct, prior to its submission to the 21st Session of con, due to meet in March 1995. The draft consists of 11 Articles, which outline the context,

set out the General Principles and detail six main areas: fisheries management; fishing operations; aquaculture development; integration of fisheries into coastal management; post-harvest practices and trade; and fisheries research.

In terms of marine fisheries, about 80 to 90 per cent of the world's commercial fish stocks fall within the 200-mile EEZs recognized by UNCLOS. The remaining marine fish stocks comprise high-seas fisheries in international waters.

Although UNCLOS includes provisions for these, issues of access rights and management are far from resolved. Like many international boundaries, EEZs confer resource riches to some and poverty to others.

UNCLOS has not been able to resolve many of the conflicts arising from this unequal distribution of resources, or to deal with the aggrieved interests who now find previously open-access resources closed to them.

Unresolved issues pertain to distant-water and high-seas fisheries, the management of fish stocks which migrate between EEZs, and resource-use conflicts within EEZs (such as traditional rights vs. commercial interests).

### **Flags of convenience**

There are also problems caused by interest groups who are not party to UNCLOS or other internationally agreed fisheries conservation and management arrangements. Of particular concern is the use of 'flags of convenience to circumvent international agreements and regulations.

While one process of concern is the development of a Code of Conduct for Responsible Fishing, the second process

originates from UNCED, which acknowledges the failure of the international community to manage global fish resources.

**T**his concerns the development and implementation of Chapter 17 (the Oceans Chapter) of Agenda 21, and includes the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

At stake is a lot more than just the health and viability of global fish stocks, most of which are overexploited. Of particular concern is the right of fishing communities to livelihood and food security.

This is a concern which seems to have become subordinated to the wrangling of lawyers and bureaucrats over boundaries, access and ownership rights, national sovereignty, and so on.

The focus of the Draft Code of Conduct would seem to be on the responsibilities of states as regards the sustainable use of fish resources, technical management measures, conservation and environmental concerns and the rights of consumers to quality and value-added fish products.

Issues such as the rights of fishing communities to livelihood and food security, the importance of traditional knowledge and management systems, fishworkers' rights to decent working

conditions at sea and on land and the important contribution of women, seem to be subsumed under the more technical and biological management objectives.

For instance, Article 6 on Fisheries Management states *that sustainability of the fisheries resources is the overriding long-term objective*. The assumption being that so long as there are fish, there will be fishermen, *ergo*, fisheries management objectives only need to be technical—and not socio-economic.

In terms of moving forward with how the draft Code of Conduct should be worded, the Technical Consultation soon became bogged down in an intractable wrangle between the two main interest groups: the member states with high-seas and distant-water fishing interests and those with jurisdiction over coastal fisheries within EEZs.

#### **Keen on agreement**

The former seemed to be keen on establishing an agreement at this meeting which they could take to the next round of discussions at the UN in New York on Straddling Fish Stocks and Highly Migratory Fish Stocks. The latter seemed to be in no hurry to get such an agreement, and appeared to prefer wrecking tactics to delay a conclusion.

It was finally decided not to discuss the sections which dealt with high-seas fisheries until the UN Conference on Straddling Fish Stocks and Highly

Migratory Fish Stocks had reached a conclusion. Also at issue was the status of this meeting *vis-à-vis* the UN Conference on Straddling-Fish Stocks and Highly Migratory Fish Stocks and the COFI meeting scheduled for March 1995.

**T**he outcome of this Technical Consultation suggested that it is subordinate to both and that the role of the FAO Secretariat in redrafting the documentation and providing recommendations will be crucial.

In many ways, this technical consultationcum-negotiation seemed to be about getting some rubber stamping to the Code. It suggested that the real work will be done at the COFI meeting in March.

However, to write off the meeting as inconclusive would be a mistake. There were some invaluable contributions from island and developing nations. In particular, Peru, Fiji, Samoa, Cook Islands and Malaysia were very strong on issues. Malaysia proposed that an extra Article on Development Co-operation be added.

The invitation to NGOs to participate as observers in this consultation also gives cause for optimism. There seems to be a much more enlightened attitude towards NGOs at FAO. At its last session in November 1993, the FAO Conference affirmed that 'NGOs should be treated as development agents in their own right, not as alternative deliverers of aid programmes', and that co-operation with NGOs should extend throughout the range of the organizations' technical activities'.

As far as fishworkers are concerned, the presentation made by Ms Margarita Lizarraga, Senior Fishery Liaison Officer, FAO, at the 1994 Cebu Conference organized by ICSF was particularly welcome.

In 1984, fishworkers and their representatives were barred from participating in the FAO World Conference on Fisheries Management and Development.

Ten years later, FAO requested an audience at the ICSF Cebu Conference, and are now inviting the participation of ICSF and other NGOs in the development of a new global

regime for fisheries. In addition to ICSF, a variety of other NGOs and interest groups participated in this Technical Consultation. As far as NGOs were concerned, the other main actors were Greenpeace and World Wide Fund for Nature (WWF).

Although representing quite different constituencies, there is a lot of mutual support and shared interests between these organizations. In fairly simplistic terms, ICSF is interested in promoting the rights of fishworkers, while Greenpeace seems to take a broader view of fisheries in the context of the global environment and human society. WWF's interests seem to be focused mainly on conservation, with specific objectives for biological and technical management measures and research.

ICSF's participation in this Technical Consultation enabled the concerns of fish-workers, particularly in the artisanal and small-scale sectors, and their representative organizations to get on to the official agenda. It is noteworthy that ICSF was invited to contribute a special paragraph to Article 5 (General Principles) on small-scale and artisanal fisheries, and that its proposals for regulating fishing effort through promoting ecological efficiency (rather than technical efficiency) were given widespread approval.

#### Interventions

Throughout the Consultation, ICSF intervened to promote the rights of fish-workers to livelihood and food security, to safe and fair working conditions, to participate in fisheries management and policy determination, and to rights of access to resources and to land tenure ashore. Undoubtedly, ICSF's participation was well received. ♣

This analysis is based on reporting by the ICSF delegation to the Technical Consultation held by FAO on the Code of Conduct for Responsible Fishing.