

Record of the 8th Multilateral Meeting on Management of High Seas Fisheries in the North Pacific Ocean

**Jeju, Korea
20-22 January 2010**

Meeting Report

1. Welcome and Opening of the Meeting

The 8th Multilateral Meeting on Management of High Seas Fisheries in the North Pacific Ocean (NPO8) was opened at 9:45 am on Wednesday, 20 January 2010 by Mr. Il Jeong Jeong from Republic of Korea (Korea). Mr. Young Je Ha, Vice Minister of Food, Agriculture, Forestry and Fisheries (Korea) welcomed the participants and gave opening remarks. A list of meeting attendees is contained in Attachment 1.

2. Election of Chair and Rapporteur

Professor Seo-Hang Lee (Korea) was elected as Chair of the Multilateral Meeting (NPO8). Ms. Rini Ghosh (U.S.) agreed to serve as Rapporteur. Mr. David Balton (U.S.) was appointed separately to serve as Chair for the negotiations of the Draft Convention Text for the remainder of the negotiations of the text.

3. Moment of Silence

A moment of silence was held in the memory of the late Dr. Vadim Savinykh, who had participated in past meetings and was scheduled to head the delegation for the Federation of Russia (Russia) to this meeting.

4. Adoption of Agenda

The agenda was reviewed and adopted (Attachment 2) and a document list was provided to the participants (Attachment 3).

5. Reports

a. Report from the 8th Scientific Working Group

Dr. Daeyeon Moon (Korea) presented the report of the 8th Scientific Working Group (SWG8) meeting, held 19 January 2010 in Jeju, Korea. The participants adopted SWG8 meeting report and the associated recommendations contained within the report, including the Meeting Report of the Stock Assessment Workshop held 17-18 January 2010 and presented at SWG8.

b. Report from the Interim Secretariat

i. Outcome of the 7th Multilateral Meeting and Past Meetings

The Interim Secretariat (I.S.) summarized the history of the negotiations and past multilateral meetings.

ii. Work Conducted after the 7th Multilateral Meeting

The I.S. reported that DOALOS and the IMO were contacted regarding the sighting of F/V Armela Wonson in the NPO, however, no information had been collected by those entities.

The I.S. presented updated information on the authorized vessel list maintained on its website as well as a summary of the results from the UNGA 64/72. Russia agreed to submit 2008 vessel data to the Interim Secretariat.

The I.S. reported that letters had been sent to China and Mexico inviting them to the 8th Multilateral Meeting 20-22 January 2010, in Jeju, Korea.

6. Discussion on the Revised Draft Convention Text

The participants continued the reading and discussion of the Convention text from NPO7. Participants gave Mr. Balton the mandate to revise the draft text during the intersessional period taking into account views expressed during NPO8 and any subsequent comments received from the participants. Mr. Balton was also asked to provide proposals as appropriate. Mr. Balton will submit a revised draft Convention text to the Interim Secretariat.

7. Participation of Fishing Entity

Professor Lee summarized the outcome of a meeting among Heads of Delegations of States that resulted in a document, “Common Understanding of States Participating in Negotiations to Establish a New Fisheries Management Arrangement for the North Pacific Ocean with Respect to the Attendance of Fishing Entities” (Attachment 4). In this regard, the respective position papers by the People’s Republic of China (Attachment 5) and Chinese Taipei (Attachment 6) are attached.

8. Discussion on the Additional Interim Measures on VMEs and Marine Species

Participants noted that the current Interim Measures adopted by Japan, Korea, Russia and the United States only apply to the high seas areas of the Northwest Pacific Ocean (FAO statistical area No. 61). They further noted that UNGA Resolution 64/72 calls upon States engaged in negotiations to establish regional fisheries management organizations or arrangements to ensure interim measures are adopted and applied to the entire area under consideration for management. To this end, meeting participants expressed a willingness to consider Interim Measures for the Northeast Pacific Ocean at NPO9, acknowledging that such measures need not be identical to the existing Interim Measures for the Northwest Pacific. Until such interim measures are adopted, the participants agreed to apply certain preliminary measures in respect of fishing activities by vessels flying their flags in the Northeast Pacific. In particular, participants agreed:

- That fishing effort in bottom fisheries on the high seas of the Northeast Pacific Ocean should be limited to the existing level in terms of the number of fishing vessels and other parameters which reflect the level of fishing effort, fishing capacity or potential impacts on the marine ecosystems; and
- To collect and submit scientific information from each bottom fishing vessel operating in the area, including catch and effort data and related information such as time, location, depth, temperature, etc.

They agreed that other issues such as the criteria and conditions for expansion of fishing effort beyond current levels, including new or exploratory fisheries, should be addressed as part of any interim measures adopted in respect of this area.

9. U.S. Proposal for an Ad Hoc Working Group on VMEs

The U.S. submitted a proposal for an Ad Hoc Working Group on VMEs. Some delegations felt the creation of an Ad Hoc Working group was not appropriate at this time. However, delegations agreed to leave the issue open and to revisit this topic at SWG9. Participants agreed during the intersessional period to obtain additional information on this topic.

10. Timeline for Future Work

19 March 2010 Comments and suggestions on the draft Convention text due to the Interim Secretariat as well as Mr. Balton (BaltonDA@state.gov)

30 April 2010 I.S. will circulate draft Convention Text from Mr. Balton

11. Requested Matters to the Interim Secretariat

The I.S. requested Japan, Korea, and Russia to submit updated information for the record of authorized vessels maintained on its website.

The I.S. offered to submit the information required by the 2009 UNGA Resolution 64/72 paragraph 122(c) regarding authorized vessel list to the FAO. The participants will consider this offer and inform the I.S. of their decisions.

12. Dates and Place of the Next Meetings

Russia offered to host the next Multilateral Meeting on the Management of High Seas Fisheries in the North Pacific Ocean (NPO9). The location and dates will be determined as soon as possible. Canada will consider hosting the following meeting (NPO10) in January 2011.

13. Other Matters

Korea announced that the FAO Bottom Fisheries workshop will be held from 10-12 May 2010 in Busan, Korea. Korea will convey information about this workshop to the I.S. for distribution to all participants.

Korea also touched upon the issue of the establishment of an independent Secretariat for the management of high seas fisheries in the NPO. In connection with the issue, Dr. Yong-Ki Hong of Pukyong National University in Busan, presented information regarding the importance of fisheries management and fisheries studies at the university.

14. Adoption of the Record of the Meeting

The meeting concluded at 6:30 on 22 January 2010.

15. Closing of the Meeting

Participants thanked the Chair of the Multilateral Meeting, the Chair of the Draft Convention Text negotiations, the Rapporteur, the Interim Secretariat, and the host government for their preparations, arrangements, and running of the meeting.

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¹ Chinese Taipei reserved its position on its participation under the designation in bullet point one in the "Common Understanding of States Participating in Negotiations to Establish a New Fisheries Management Arrangement for the North Pacific Ocean with Respect to the Attendance of Fishing Entities," NPO8/1. The Participating States will invite Chinese Taipei to the future multilateral meetings acting in accordance with the Common Understanding, NPO8/1.

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² The Faroe Islands reserved its position on whether it would continue to attend future multilateral meetings as an Observer, or whether it will seek to attend as a Participant.

**8th Multilateral Meeting on Management
of High Seas Fisheries in the North Pacific Ocean**

**Jeju, Korea
20-22 January 2010**

Agenda

1. Welcome and opening of the meeting
2. *Election of chair and Rapporteur*
3. *Adoption of agenda*
4. *Reports*
 - (i) Report from the Interim Secretariat on the outcome of the 7th Multilateral meeting and on the 2009 UNGA fisheries resolution.
 - (ii) Report from the 8th Scientific Working Group on its work (including the Stock Assessment Workshop)
5. Discussion on the revised draft convention text
6. Discussion on the additional Interim Measures on VMEs and marine species
7. Timeline for future work
8. Requested matters to the Interim Secretariat
9. Date and place of the next meeting
10. Other matters
11. Adoption of the record of meeting
12. Closing of the Meeting

**8th Multilateral Meeting on Management
of High Seas Fisheries in the North Pacific Ocean**

**Jeju, Korea
January 2010**

List of Documents

-NPO8/1: Common Understanding of the States Participating in Negotiation to
Establish a New Fisheries Management Arrangement for the North Pacific
Ocean with Respect to the Attendance of Fishing Entities

Information Papers

-NPO8/Inf1: List of Documents
-NPO8/Inf2: List of Participants

Working Papers

-NPO8/WP1: Provisional Agenda
-NPO8/WP2: Provisional Annotated Agenda
-NPO8/WP3: Draft Convention Text
-NPO8/WP4: U.S. Proposal for an Ad Hoc Working Group on VMEs

Reference Papers

-NPO8/Ref1: Record of the 7th Multilateral Meeting on Management of High Seas
Fisheries in the North Pacific Ocean
-NPO8/Ref2: 2009 UNGA Resolution (excerpt: paragraphs 112 to 130)

NPO8/1

Common Understanding of the States Participating in Negotiations to Establish a New Fisheries Management Arrangement for the North Pacific Ocean with Respect to the Attendance of Fishing Entities

The States participating in the negotiations will proceed with negotiations to establish the new arrangement in accordance with the following common understanding:

- Chinese Taipei, as a Fishing Entity, will attend the negotiations to establish the new fisheries management arrangement as a Special Observer;
- The status of Fishing Entities in the negotiations is not the same as the status of sovereign States;
- During these negotiations, all efforts will be made to reach agreement by consensus. If efforts to reach a consensus on any issue are exhausted, a decision will be taken by sovereign States;
- Adoption of the Convention will be subject to Article 9 and other relevant provisions of the 1969 Vienna Convention on the Law of Treaties;
- The participating States express their willingness to work with others and make the utmost effort to establish appropriate articles in the North Pacific fisheries convention to secure a meaningful level of participation for Chinese Taipei in the North Pacific Fisheries Commission, taking into account the recent outcomes of the negotiations to establish the South Pacific Regional Fisheries Management Organization.

**Position on the Participation of the Chinese Taipei Fishing
Entity in the Multilateral Meetings on Management of
High Seas Fisheries in the North Pacific Ocean**

by Chinese Delegation

20th January 2010, Jeju

With regard to the participation of the Chinese Taipei Fishing Entity in the Multilateral Meetings on Management of High Seas Fisheries in the North Pacific Ocean (hereinafter referred to as “NPO Meetings”), the Chinese side is of the view that the Chinese Taipei Fishing Entity should participate in the NPO Meetings in the capacity of an observer.

The Chinese side takes the above position on the following grounds:

- (a) Political ground: according to the One China Principle, Taiwan, as an integral part of China, should never be offered the equal participation with sovereign States in an inter-governmental meeting or in the negotiation of an international Convention.
- (b) Legal ground: neither 1982 UNCLOS nor 1995 Fish Stock Agreement allows a fishing entity to be a Contracting Party to a regional fishery management convention. The NPO Meetings aim to establish a fishery management convention and therefore should not grant the status of a formal participant to the Chinese Taipei Fishing Entity.
- (c) Practical ground: the *Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean*, which was adopted on 14 November 2009, is the most recent practice in the establishment of a regional fishery convention.

The Chinese Taipei Fishing Entity attended the negotiation of the said Convention in the capacity of an observer.

In view of the above considerations, the Chinese side requests that in the 8th NPO Meeting some arrangements should be made as follows:

- (a) Before the commencement of the meeting, the chair of the meeting should take an appropriate action to make it clear that Taiwan of China attends the NPO Meetings in the capacity of an observer as “Chinese Taipei Fishing Entity”.
- (b) The Chinese Taipei Fishing Entity shall not participate in the decision-making process, which includes meetings of the Heads of Delegations.
- (c) The Chinese Taipei Fishing Entity shall be arranged to be seated separately from the participating States. It may take the floor after the States.
- (d) In all meeting activities, publications, documents, materials and other relevant items, the use or appearance of the so-called “National Flag”, “National Emblem” or “National Anthem” of Taiwan and the terms that imply the so-called sovereign entity of Taiwan, such as “R.O.C”, “TAIWAN”, “TAIPEI”, “Ministry of Foreign Affairs” and “Executive Yuan” etc. is forbidden.

It is noted by China that the Chinese Taipei has significant fishing activities in the North Pacific Ocean. Furthermore, the States have common interest in placing all fishing activities under effective control. China hereby emphasizes that it is out of the above considerations that China agrees to show flexibility by engaging the Chinese Taipei in the NPO Meetings. However, the bottom line is that the engagement of the Chinese Taipei in the NPO Meetings should not violate One China

Principle. Under no circumstances should the Chinese Taipei Fishing Entity participate in the NPO Meetings in the capacity equivalent to sovereign States. China holds the view that the Chinese Taipei Fishing Entity can only participate in the NPO Meetings as an observer.

China attaches great importance to the work of the NPO Meetings and is willing to contribute to the conservation and sustainable use of fishery resources in the North Pacific Ocean. Likewise, China hopes that the other States fully understand and support the above position of China. China believes that we will work out a proper solution to the issue of the participation of the Chinese Taipei Fishing Entity in the NPO Meetings, with a view to moving ahead with the agenda of the Meetings.

Position Paper on “Common Understanding” concerning Chinese Taipei’s Participation

By Delegation of Chinese Taipei

8th Multilateral Meeting on Management of High Seas Fisheries in the North Pacific Ocean
21 January 2010, Jeju, Republic of Korea

Chinese Taipei would like to make the following positions regarding the so-called “common understanding” on our participation in this Multilateral Meeting.

First, the idea of “fishing entity” is designed to facilitate participation of Chinese Taipei in international fisheries conservation and management regimes by setting aside the question of its political designation or legal status. This arrangement has enabled Chinese Taipei and other members of the international community to engage in cooperation. The “common understanding”, however, constitutes a step backward with respect to the delicate balance painstakingly established over the last 20 years. In our view, it will, in the long run, be detrimental to the effectiveness of the conservation and management of fishery resources. Political issues should not be raised in such a forum. Chinese Taipei does not accept any description or designation of a political nature relating to its participation in the present negotiations.

Second, Chinese Taipei would like to point out that it was invited to attend the multilateral meeting on management of high seas fisheries in the North Pacific Ocean as a full participant, pursuant to the decision taken in the 6th inter-governmental meeting in February 2009. Since then, it has been working and negotiating with all the other participants in this multilateral process. In the 7th Multilateral Meeting in Seattle last August, Chinese Taipei formally joined

the negotiations regarding the Draft Convention to Establish the North Pacific Fisheries Commission on an equal level as the other participants. In that meeting, it also responded to various questions relating to the implementation of the interim measures. The status of Chinese Taipei in the Multilateral Meeting has remained the same: it was a participant in the 7th meeting; and it is a participant in the current 8th meeting. Decisions on the arrangements for the 8th Meeting were made during the 7th meeting in Seattle, where Chinese Taipei attended as a full participant. Paragraph 10 of the Record for the 7th meeting provides, “Korea as the host country will send notification with details of the next meeting *to the Participants* [emphasis added], including Mexico and the People’s Republic of China”. In fact, Chinese Taipei, like the other participants, received such notification on the details of this meeting from the host country Korea. We therefore do not accept the status described in the so-called “common understanding” and reserve our right to full participation in the future.

Third, we must emphasize that this is not the first time that both Chinese Taipei and China have participated in negotiations for conventions on the conservation and management of fishery resources. From 1997 to 2000, both Chinese Taipei and China participated in the MHLRC negotiations that led to the conclusion of the WCPFC Convention. Likewise, from 1999 to 2003, both Chinese Taipei and China, sitting around the same table with other participants, took part in the negotiations that led to the conclusion of the Antigua Convention, which will enter into force this August. In those inter-governmental negotiations, China did not question the capacity of Chinese Taipei to be a full participant with procedural rights equal to all the other participants. During those negotiations, no complaints on the grounds of the so-called “One China” principle were heard, let alone on the grounds that such practices were not consistent with the principles and provisions of the 1982 Law of the Sea Convention or the 1995 Fish Stocks Agreement. On the contrary, full participation by Chinese Taipei is considered an essential and positive step toward ensuring the effectiveness of treaty regimes established for the conservation and management of fisheries, and has been proved essential and effective in many cases.

Finally, despite what is expressed in bullet point five of the so-called “common understanding”, we firmly believe that the models of WCPFC and IATTC should be followed.

Chinese Taipei does not accept proposals made in the so-called “common understanding” regarding its participation in the negotiations. Chinese Taipei also sees no credible legal, political or practical justification for opinions expressed during this meeting relating to its participating status. Chinese Taipei therefore urges participants to make a decision that moves international fisheries practice forward, not backward. We respectfully request this position paper be put on the official meeting record and distributed among participants.