

Fisheries Management

Overfishing by foreign vessels has been a major contributor to the collapse of Canada's fish resources. While foreign fishing and overfishing in international waters near Canada has a long history, developments in international law that relate to the concept of territorial seas and the rights of coastal states become critical as resources diminish. Custodial management of international waters, which includes effective enforcement measures and dispute resolution procedures, is an issue that must be dealt with on the international stage by the Canadian government.

Canada's continental shelf extends beyond the 200-mile exclusive economic zone (EEZ) into areas of the continental shelf known as the Nose and Tail of the Grand Banks, and also the Flemish Cap. Canada is one of only three countries with such a continental shelf that extends beyond 200 miles. This area represents a part of the natural range of several groundfish species (including northern cod, southern Grand Bank cod, and several flatfish species), which move outside the 200-mile limit in response to changes in water temperature and food availability. During these periods, these species have been subject to severe overfishing by foreign vessels. The North Atlantic Fisheries Organization (NAFO), which was established in 1979 to manage the stocks that straddled Canada's EEZ and the high seas beyond 200 miles and those on the Flemish Cap, has been ineffective in achieving conservation of these internationally fished groundfish stocks.

NAFO decision making process, objection procedures are flawed making it difficult to implement conservation measures, it has no binding dispute resolution mechanism. Under the NAFO Convention, as under current law of the sea, individual flag states have the sole right to enforce measures adopted for fisheries in the NRA. While boarding and inspections are permitted, albeit under strict and agreed guidelines, the inspecting state can take no direct enforcement action; only the flag state can prosecute its vessels for violations

It is clearly impossible for a coastal state, such as Canada, to effectively manage these stocks within a 200-mile exclusive economic zone in the absence of effective management measures outside 200 miles.

According to *Report of the Advisory Panel on the Sustainable Management of Straddling Fish Stocks in the Northwest Atlantic*, the ineffective management of straddling stocks on the Grand Banks is a direct consequence of the limitations placed on coastal states and the maintenance of a global commons on the high seas. This is because of the current provisions of the law of the sea and the inadequacies of the Regional Fisheries Management Organization (RFMO) for the area, or NAFO. In the first instance, coastal states are forced to rely on cooperation from Distant Water Fishing Nations (DWFN) to manage fish stocks that cross their EEZ boundaries. This has not been generally forthcoming. In the second case, RFMOs are the only vehicle the law of the sea provides for management of straddling stocks but they really have been given no effective powers to attain conservation in the absence of cooperation. The RFMO for the Northwest Atlantic, NAFO, has been particularly ineffective in managing the stocks under its aegis.

After 16 years of a Canadian moratorium and multi-nation management of the fishery on the Grand Banks including the Nose and Tail and the Flemish Cap, the resource has practically collapsed. All participants are now experiencing such low catches per unit of effort that it is rapidly becoming an uneconomic industry. Continued fishing on diminishing stocks will result in commercial extinction unless a state of emergency is

declared and an effective management regime is implemented for the long term benefit of nations with an historical performance in those fisheries

Economic Value of Fisheries

Fishing industries contribute greatly to the national economy. In 2006, 865,000 tonnes of fish were landed in the Atlantic region and 211,000 tonnes in the Pacific region. The combined value of the 2006 catch was more than \$1.8 billion. With exports of fish and seafood products estimated at \$3.5 billion in 2004 (the most recent data available), Canada ranked sixth in the world for exports in this sector. Over the past 15 years, however, the landed value and quantities of significant ocean groundfish species have declined sharply due to resource scarcity and resulting moratoria.

Issues of Custodial Management

The 1982 convention, as well as the growing international acceptance of the right of coastal states to a 200-mile EEZ, effectively brought 90 per cent of the world's fisheries under coastal state management. Unfortunately, however, the third United Nations Conference on the Law of the Sea did relatively little to develop international law with respect to fisheries occurring outside the 200-mile limit. While UNCLOS contains a number of vague references to the need for states to cooperate to ensure the conservation of fisheries resources on the high seas, the uncertain extent of coastal states rights, and the absence of effective enforcement measures and dispute settlement procedures meant few controls existed. This is a major concern with respect to both highly migratory species and straddling stocks, which continue to be heavily exploited by distant water fleets.

The United Nations Fish Stocks Agreement (UNFA) elaborates the principles of UNCLOS, and contains provisions for dispute settlement and the right of states that are party to UNFA to board and inspect fishing vessels to verify compliance with internationally agreed fishing rules.

Canada has full responsibility to manage the fishery within its Exclusive Economic Zone (EEZ) which is contained within the 200 mile limit proclaimed in 1977 within the framework of the Law of the Sea Convention. Under custodial management, Canada, the coastal state, would assume responsibility, on behalf of the international community, for the full extent of the continental shelf zone and for management of straddling and non-transboundary fish stocks in waters within that zone but beyond 200 miles, commonly known as the Nose and Tail of the Grand Banks and the Flemish Cap. Canada would assume responsibility for the conduct of science, the implementation of compliance and other regulatory mechanisms to ensure ongoing effective management and the rebuilding of fish stocks within this marine ecosystem. Canada would also establish management rules for all stocks, including but not restricted to: biomass targets and limits; total allowable catches (TAC'S), seasonal and area closures, gear restrictions and bycatch limits, to be determined by scientific advice. Allocations of annual fishing quotas within the TAC would respect the historical shares held by individual fishing states. Provision could be made for a regional fishery management organization to play an advisory role and to undertake scientific research to support the management of the zone encompassed by this proposed custodial management regime. By invoking custodial management Canada would respect historical fishing rights and not arrogate to itself the right of access to all of the quotas.

Recommendation

That the federal government take decisive action to deal with foreign overfishing on the Nose and Tail of the Grand Banks and the Flemish Cap by undertaking custodial management in the waters above Canada's continental shelf, whereby Canada would assume responsibility for the conduct of science, the implementation of compliance and other regulatory mechanisms to ensure ongoing effective management and the rebuilding of fish stocks within this marine ecosystem. Canada would also establish management rules for all stocks, including but not restricted to: biomass targets and limits; total allowable catches (TAC'S), seasonal and area closures, gear restrictions and bycatch limits, to be determined by scientific advice.