

Translated from Russian

Views on the topic of the fifteenth round of informal consultations of States parties to 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, “Implementation of an ecosystem approach to fisheries management”

In accordance with paragraph 66 of United Nations General Assembly resolution 75/89 of 8 December 2020, entitled “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”, the United Nations Secretary-General invited the States parties to the 1995 Agreement to submit their views on the topic “Implementation of an ecosystem approach to fisheries management” to the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs.

The ecosystem approach has become a central principle of international environmental law. The core of this principle is that States should, when making decisions about the use of any natural resource, be guided by the need to prevent and avoid harm to any marine living resources and other related resources, and to the environment as a whole.

The importance of implementing an ecosystem approach to fisheries management is noted by the United Nations General Assembly in its annual resolutions on 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.

The first international treaty to set out an ecosystem approach to fisheries management was the Convention on the Conservation of Antarctic Marine Living Resources of 1980. In accordance with article II (3) (b) of that Convention, any harvesting and associated activities in the area to which the Convention applies shall be conducted in accordance with the principles of maintaining the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and restoring depleted populations.

Unlike other multilateral fisheries agreements, the Convention on the Conservation of Antarctic Marine Living Resources not only regulates fishing, but also addresses ecosystem conservation. This “ecosystem approach”, according to which the entire Southern Ocean is a network of interconnected ecosystems, sets the Convention apart from other multilateral fisheries agreements.

The ecosystem approach does not focus solely on harvested species; it also encompasses the need to avoid situations in which harvesting has an adverse effect on species that are dependent on marine living resources and related species, namely, animals with which humans compete for food. In implementing an ecosystem approach, the Commission for the Conservation of Antarctic Marine Living Resources is concerned about the “indirect” effects of fishing, namely, that the removal of one consumed species (e.g. krill) at one trophic level may indirectly affect other trophic levels, such as seabirds or mammals. The Commission therefore seeks to regulate human activities (i.e. fishing) in such a way as to avoid harmful changes to the Antarctic ecosystem.

While the United Nations Convention on the Law of the Sea of 1982, the core international treaty governing the law of the sea, does not include the concept of an ecosystem approach, it does emphasize the need to take measures to protect fragile ecosystems. Under this international legal instrument, States parties are required to take all necessary measures to conserve and protect the marine environment and to sustainably use its resources taking into account the interdependence of stocks (inter alia, articles 61–67 and 119 of the Convention). Taken together, these standards provide for the application of a modern ecosystem approach to fisheries management.

The need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations is noted in the preamble to 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.

Article 5 of the 1995 Agreement stipulates that States parties shall assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks.

Paragraph 6.1 of the Code of Conduct for Responsible Fisheries, adopted by the Food and Agriculture Organization of the United Nations (FAO) in 1995, provides that States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management

of the living aquatic resources. Although the FAO Code of Conduct for Responsible Fisheries is not legally binding, it is important for fisheries management. Despite the voluntary nature of the Code, the FAO Committee on Fisheries believes that all people involved in fisheries and aquaculture are obliged to adhere to the principles and objectives defined therein and to adopt practical measures to fulfil them.

The topic of an ecosystem approach to fisheries management was also reflected in the Reykjavík Declaration on Responsible Fisheries in the Marine Ecosystem of 2001. The Declaration contains calls for such an approach and sets out the immediate steps for its implementation.

On the whole, regional fisheries management organizations now apply an ecosystem approach to their activities. However, such an approach is set out in only some of the international treaties under which these organizations were founded.

In its annual resolutions on sustainable fisheries, the United Nations General Assembly urges regional fisheries management organizations and arrangements to improve transparency and to ensure that their decision-making processes are fair and transparent, to rely on the best scientific information available and to incorporate the precautionary approach and ecosystem approaches.

Article 4 of the South Indian Ocean Fisheries Agreement of 2006 provides that cooperation by States parties is based on a number of principles, including that 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.

Article 2 of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean of 2009 provides that the objective of that Convention is, through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long-term conservation and sustainable use of fishery resources and, in so doing, to safeguard the marine ecosystems in which these resources occur. In addition, article 3 of the Convention stipulates that marine ecosystems must be protected, in particular those ecosystems which have long recovery times following disturbance.

According to article 3 of the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean of 2012, States parties must adopt and implement measures in accordance with the precautionary approach and an ecosystem approach to fisheries.

The principle of an ecosystem approach to fisheries management is also reflected in regulations of the European Union. For example, the European Parliament adopted a resolution on the common fisheries policy and the ecosystem approach to fisheries management in 2009. In this resolution, the European Parliament stresses that an ecosystem approach to fisheries currently provides the best basis for a global management and decision-making system. The European Union confirms that its fisheries policy is based on an ecosystem approach and conforms to international law.

An ecosystem approach to fisheries management has not been set out in many of the bilateral treaties to which the Russian Federation is a party. One of the reasons for this is that most of the treaties between the Russian Federation and other States were concluded before the term “ecosystem approach” was introduced into international law.

One treaty in which an ecosystem approach is set out is the 2009 Agreement between the Government of the Russian Federation and the European Community on cooperation in fisheries and the conservation of the living marine resources in the Baltic Sea. It stipulates that the parties shall develop their cooperation in the exploitation of stocks in such a way that the future exploitation of the stocks will not be prejudiced and that it does not have a negative impact on the marine ecosystems.

Although an ecosystem approach to fisheries management has not been set out in Russian law, the Russian Federation de facto applies this principle, for example, when setting the total allowable catch, when making decisions on closing fishing areas in order to restore depleted stocks and when imposing bans on the harvesting of certain living aquatic resources.

The implementation of the principle of an ecosystem approach to fisheries management is therefore extremely important. Adhering to this principle, together with other principles (the precautionary approach and the sustainable use of marine living resources), should ensure the conservation of marine living resources, as provided for in the United Nations Convention on the Law of the Sea of 1982. When making decisions on fisheries management, States should consider to what extent fishing for certain marine living resources will affect other species that are dependent on them for various reasons. The principle of an ecosystem approach is of particular importance in determining the total allowable catch.

The ecosystem approach to fisheries management has now become a fundamental international legal principle of fisheries management. It has crucially been set out in universal and regional international treaties and has also been reflected in international guidance instruments. The

core of this principle is that States should, in making decisions about fisheries management, be guided by the need to prevent and avoid harm to other living or non-living resources and to the environment as a whole.

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December 2021
