



Environmental Assessment and Fisheries Management

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Introduction and structure

- Application of environmental assessment in current fisheries management
- Assessment of prospective activities: new and exploratory fisheries
- Assessment of expanded activities: deep-sea fishing and VMEs
- Next steps?





Environmental assessment and fisheries

- Few clear global obligations towards environmental assessment in fisheries
- Status of EIA in international law – questions over SEA and cumulative EA
- Article 206 LOSC silent on fisheries assessment
- Commitments are very general in a fisheries context: e.g. Article 5(c) UNFSA
- Some elements of EA applied in the context of new/exploratory fisheries and bottom fisheries



New and exploratory fisheries

- Intriguing example of assessment requirements for developmental fisheries
- Demonstrates that environmental assessment can be a valuable tool in developing a responsible and precautionary approach
- “Perfect storm” of depleted fisheries resources and potentially profound impacts of climate change
- Fishing effort increasingly displaced to different areas, depths and species; possibly different fishing gear
- Presents a challenge to international fisheries law, which is essentially based on predictability of fishing patterns and stocks
- A problem not contemplated by the LOSC
- Accretion of practice and standards since 1989: can now identify clarity in intended processes



Challenges of new fisheries

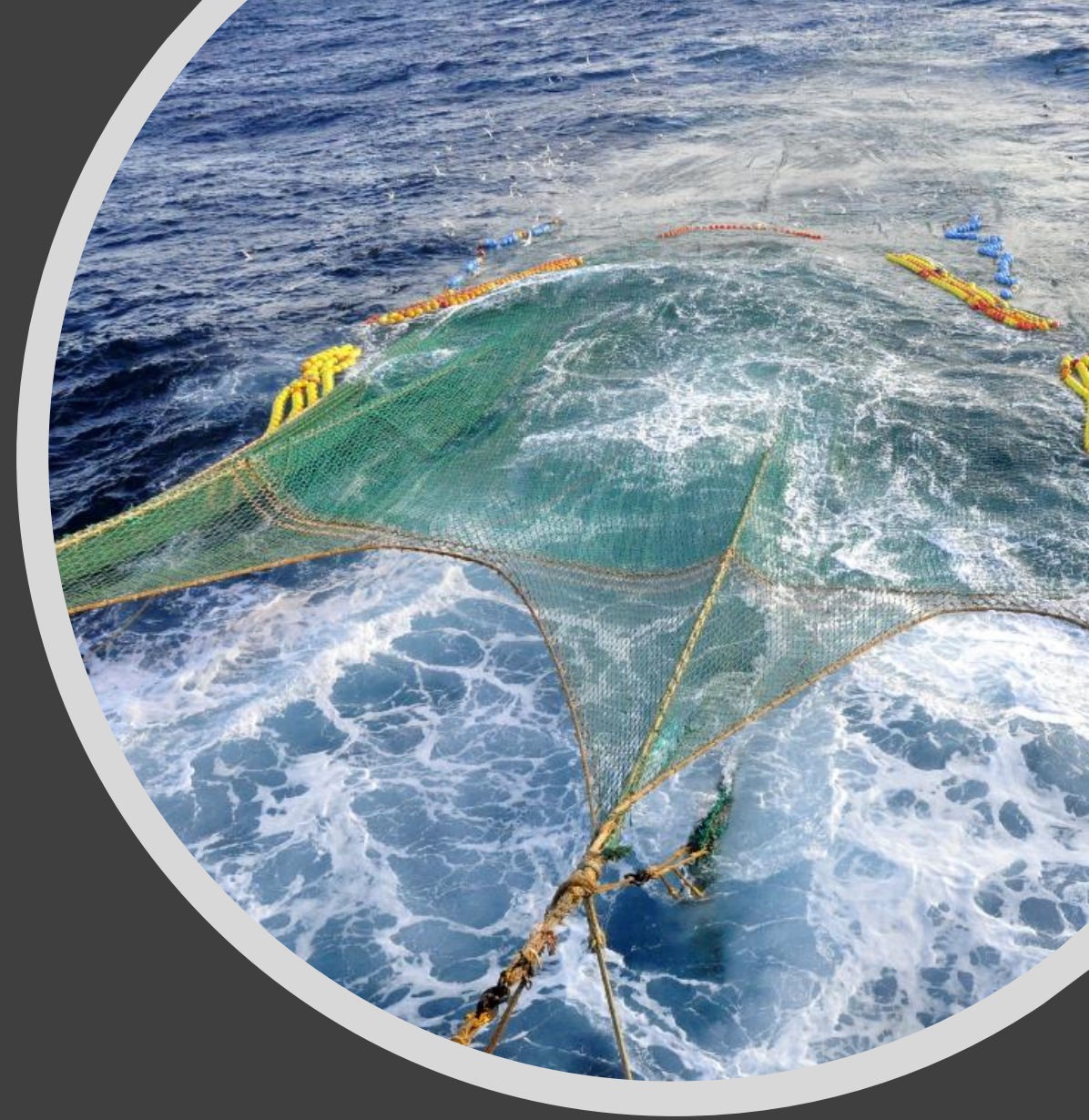
- Unequal priority for RFMOs – some highly proactive, others have not had to address this issue substantively
- Little knowledge of target stock and ecosystems – difficult to ascertain what damage may be done by authorising industrial fishing
- Commercial transition presents a strong challenge to precautionary approach to fisheries management
- UN Fish Stocks Agreement 1995, Article 6(6)
- Practice of particular RFMOs – notably CCAMLR

UN Fish Stocks Agreement

- First formalised recognition of NEF in a global fisheries instrument
- Article 6(6): “For new or exploratory fisheries, States shall adopt **as soon as possible** cautious **conservation and management measures**, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are **sufficient data** to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon **conservation and management measures based on that assessment** shall be implemented. The latter measures shall, **if appropriate**, allow for the **gradual development** of the fisheries.”

CCAMLR

- Most entrenched practices on NEF; informed UNFSA approach
- Dates back to 1989; first CM in 1991
- Specific policies developed for both “new” and “exploratory” fisheries
- Distinction triggered on levels of available data
- Developed to curtail unilateralism and unsustainable practices in CCAMLR Area
- Primary NEFs: Patagonian and Antarctic toothfish





CCAMLR Regulation

- CM 21-01: New fisheries are those for which CCAMLR lacks initial data as to stocks
- Notification process: Fisheries Operation Plan and commitment to collect data
- Subject to prior approval and clean disciplinary record
- Interesting definitional practice – established members v new entrants
- CM 21-02: exploratory fisheries are previously new fisheries and retain this status until agreed information is received by Scientific Committee
- Similar administrative processes for annual notifications
- Influential in framing responses by other RFMOs

CCAMLR Practice

- Pioneered in crab fishery – voluntary submission to scientific review by US
- NEFs now predominantly for toothfish
- Initial concerns about non-prosecution: costs now lie on applicant
- Uneven pursuit of NEF – predominantly in Ross Sea; concerns of over-capacity raised
- Tagging requirements – carrot-and-stick approach





Challenges

- Data collection challenges
- Uneven state of knowledge across EFs
- Increased “blurring” of categories of research fishing (Efs, Data-Poor EFs, closed areas, newly exposed marine areas)
- Transition to managed status – procedures and criteria

Towards managed status?

- Ross Sea toothfish fisheries
- Notified in 1997; by 2004 Scientific Committee notes potential over-capacity
- 2010: WG-FSA considers data collection requirements to have been met; criticism by other commentators
- Not yet formally submitted by SC to Commission as research and assessment framework considered beneficial
- Intriguing case study: appears that transitioned fisheries may be subject to more intensive observer coverage and ongoing research and monitoring requirements



Bottom fisheries

- Framework of (non-binding) UNGA Resolutions concerning deep-sea bottom fishing
- FAO Deep-Sea Fishing Guidelines 2008
- RFMO practices and procedures
- Contemplates that bottom fishing shall not occur until assessments have demonstrated that there are no significant adverse impacts on VMEs
- Broadly positive development, but a number of challenges remain





Assessment issues: Bottom fisheries

- Limited EIAs – mapping exercises have provided some insights into areas of activity, but often address quite limited areas
- Relatively limited closures have been instituted
- Documentation has been variable
- Thresholds for encounter protocols and “move-on” rules set at arguably too high a threshold to provide effective protection
- UN S-G: cumulative assessments (UNGA RES 66/68) have been essentially marginalised



Next steps...

- NEFs have been subject to proactive and effective EA processes – but geographically limited
- Bottom-fishing Resolutions have helped close regulatory gaps, but provide an imperfect assessment process
- Strong need for “big picture” image of ecosystem – necessary to promote clear SEA and cumulative assessment requirements and procedures

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Thank you!
