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Fishing industry - Taiwan

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Abstract

Taiwan has one of the largest fishing industries in the world. But because Taiwan no longer holds a seat in the United Nations, it is often left out of standard U.N. doctrines that monitor and regulate fishing. The dilemma of how to handle Taiwan's unique situation while maintaining fishing-industry standards is an issue still to be addressed.

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Fishing Industry—Taiwan

Táiwān yúyè 台湾渔业

Taiwan has one of the largest fishing industries in the world. But because Taiwan no longer holds a seat in the United Nations, it is often left out of standard U.N. doctrines that monitor and regulate fishing. The dilemma of how to handle Taiwan's unique situation while maintaining fishing-industry standards is an issue still to be addressed.

Taiwan is home to 23 million people and one of the world's largest distant-water fishing fleets. In some of the world's oceans, including the Pacific Ocean, Taiwan boasts more fishing vessels than the major fishing nations of Japan, Korea, Spain, and the United States. In particular, Taiwan has large numbers of fishing vessels that target tuna species by long-line and purse-seine (a large wall of netting that encircles a school of fish) methods.

Due to the increasing threat of overfishing throughout the world's oceans, the internationally accepted management practice has been to create regional fisheries management organizations (RFMOs) 区域性渔业管理组织 to regulate the amount and method of fishing in defined areas of the world's oceans. These are created by international conventions. A dilemma for the international community is how to include Taiwan within these legal frameworks in light of Taiwan's non-United Nations (U.N.) recognized status. (After nearly two decades of conflict over which government—the Republic of China [ROC, Taiwan] or the People's Republic of

China [PRC]—should represent China in the U.N., the PRC replaced the ROC in a November 1971 vote by the U.N. Security Council.)

International Fisheries Agreements

The United Nations Convention on the Law of the Sea (1982) (LOSC) 联合国海洋法公约 (in force generally since 1994) provides the broad framework for the conduct of fishing within the maximum 200 nautical mile "Exclusive Economic Zone" 专属经济区 of coastal States. It also creates a duty on all State parties to cooperate in the exploitation and management of shared living resources. It was envisaged by the drafters of LOSC that specific regional fisheries arrangements would be adopted based on the notion of State cooperation and the need to establish effective mechanisms to manage fishing activities on the high seas 公海. Numerous regional fisheries agreements have since been made. These apply in defined areas and generally concern high value migratory species, especially tuna. These agreements are entered into on a voluntary basis by the flag States of the vessels involved in fishing for the species in the relevant areas. It is essential that all countries that have vessels fishing for these species sign these agreements. If they do not, the effectiveness of the agreements will be limited because they will fail to regulate all the fishing that takes place for the particular species. This is because countries are only bound by international agreements to which they have voluntarily signed. Fishing vessels from countries

that do not sign such agreements generally have complete freedom of fishing on the high seas. An obvious problem arises due to the unique situation of Taiwan. It is not able to sign U.N. agreements, such as LOSC. Although less than thirty countries formally recognize Taiwan as an independent State, many more countries have shown remarkable pragmatism by devising a creative method to enable Taiwan to sign international fisheries agreements and to participate in the work of RFMOs. The solution has been to enable Taiwan's involvement in RFMOs as a "fishing entity" 渔业实体. The use of this term is seen as not disturbing the "One China" concept.

The "Fishing Entity" of Taiwan

The "fishing entity" concept has been used in nonbinding U.N. fisheries instruments such as the 1995 Code of Conduct for Responsible Fisheries and the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. These documents are directed towards States and "fishing entities." Although the term is expressed in the plural, it is generally accepted that it applies only to Taiwan. This is an example of the delicate wording needed in international documents because even *de facto* recognition of Taiwan is a sensitive matter for international diplomacy.

The first time the term "fishing entities" was used in a binding international instrument was in 1995 in the U.N. Fish Stocks Agreement. The Agreement states that, in addition to State parties, it applies "to other fishing entities whose vessels fish on the high seas" (Article 1.3). This provision has provided the pathway for Taiwan to be involved in regional fisheries arrangements. The U.N. General Assembly has endorsed the Agreement.

Taiwan has been included in a number of regional fisheries agreements, but there is no uniform method for its inclusion. As a general rule, Taiwan has achieved fuller participation in RFMOs that do not fall under the U.N. mandate.

Taiwan participates as "Chinese Taipei" in the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The Convention which constitutes the Commission enables "any fishing entity whose vessels fish for highly migratory fish stocks in the Convention Area" to

agree to be bound by the regime established by the Convention. Taiwan has a special status as a "Cooperating Fishing Entity" in the International Commission for the Conservation of Atlantic Tunas. "Chinese Taipei" participates as an observer in the Inter-American Tropical Tuna Commission. "The Fishing Entity of Taiwan" is a member of the Commission for the Conservation of Southern Bluefin Tuna through the Convention for the Conservation of Southern Bluefin Tuna. Significantly, Taiwan has voting rights in the Extended Commission equal to those of other members.

The concept of Taiwan as an "entity," or something similar, has potential in other fields. For example, Taiwan, like other member "economies," became a member of the Asia-Pacific Economic Cooperation in 1991 as the "economy" of Chinese Taipei. Also, Taiwan joined the World Trade Organization in 2002 as the "Separate Customs Territory of Taiwan." But Taiwan has not yet been able to join the World Health Organization as a "health entity."

CONCESSIONS

Even though the concept of "fishing entities" has increased Taiwan's ability to engage in fisheries-related international activities with other countries, it has only come about due to Taiwan's preparedness to make some significant concessions. These include using the name "Chinese Taipei," accepting restrictions such as not being able to chair sessions or hold meetings in Taiwan, and having a limited or no role in decision making.

An Interesting Future

The international acceptance of Taiwan as a "fishing entity" is interesting in terms of the ongoing delicate nature of China-Taiwan relations and the manner in which other countries formally deal with Taiwan. The concept recognizes that Taiwan possesses full autonomy regarding the conduct of its fishing fleet and in its relations with other countries regarding fisheries matters. It also means that Taiwan's legal obligations in most of the RFMOs in which it is a member are equivalent to those of State parties. However, the widespread use of the term "fishing entities" as a means to enable Taiwan's participation in



Fish for sale at a market. PHOTO BY JOAN LEBOLD COHEN.

international fisheries management does not mean that other countries have accepted that Taiwan is a state.

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