

Pace Environmental Law Review

Volume 13
Issue 1 *Fall* 1995

Article 5

September 1995

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Recommended Citation

Irina O. Krasnova, *Post-Rio Treaties: Implementation Challenges*, 13 Pace Envtl. L. Rev. 97 (1995)
Available at: <http://digitalcommons.pace.edu/pelr/vol13/iss1/5>

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Post-Rio Treaties: Implementation Challenges

IRINA O. KRASNOVA*

I. Introduction

The preparation of two international documents in 1994 marked an important step toward combatting the problem of global ecological degradation. The Draft Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Straddling Fish Draft Agreement),¹ and the International Convention to Combat Desertification (Desertification Convention)² both gained international approval while advancing practical solutions to worldwide environmental concerns. The problems of desertification and reduction of fish stocks threaten not only national ecological and economic stability, but also jeopardize stable regional and international development.

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1. *Draft 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*, Aug. 23, 1994, U.N. GAOR, 4th Sess., U.N. Doc. A/CONF.164/22 (1994) [hereinafter *Straddling Fish Draft Agreement*].

2. *Intergovernmental Negotiating Committee for the Elaboration of an International Convention to Combat Desertification; U.N. Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa*, U.N. Doc. A/AC.241/15/Rev. 7 (1994), reprinted in 33 I.L.M. 1328 (1994) [hereinafter *Desertification Convention*].

Desertification and reduction of fish stocks are two problems which affect Russia gravely. The notorious desertification of the Aral Sea and the less notorious but equally devastating and uncontrolled harvesting of Russian marine fish resources are just two examples of how the stark effects of environmental degradation have affected Russia. The Straddling Fish Draft Agreement and the Desertification Convention have both attempted to address environmental concerns. Analyzing the application of these two treaties through the environmental and economic lens of Russia provides a useful case study for the worldwide significance of these treaties. This paper first looks at the relevance of the Desertification Convention and the Straddling Fish Draft Agreement as applied in the Russian context. Second, the paper briefly discusses the main innovations of each treaty. Third, the paper critically analyzes the enforcement capabilities of the treaties as applied to Russia. Last, the paper considers the financial obligations and responsibilities of various state categories under the treaties.

II. The Relevance of the Treaties to Russia

According to the Russian Federation's 1992 Annual Report on the State of the Environment,³ at least two major Russian regions of the country are officially recognized as being affected by desertification. These regions include: Kalmykia in the Northern Caucasus of south European Russia and Buruattia in southeastern Siberia.⁴ Eighty per cent of Kalmykia, once known for fertile farmland, now suffers from mass desertification. Likewise, unchecked commercial forest-cutting has caused intensive soil erosion in Buruattia, which has resulted in accelerated wind and water erosion.⁵

3. State Report on the State of the Natural Environment in the Russian Federation in 1992. Russian Federation Ministry of the Environment and Natural Resources, Moscow, 1993. Published in ZELENY MIR., Nos. 19-27, 1993.

4. See generally, THE WORLD ALMANAC AND BOOK OF FACTS 491, 802-03 (Robert Famighetti ed., 1994).

5. Douglas Stanglin, et al., *Toxic Wasteland*, 18 MOSCOW NEWS, Apr. 29, 1992, at 7.

Perhaps the most vivid and sad example of the consequences of global desertification is exemplified by the catastrophic demise of the Aral Sea.⁶ The Aral Sea was once the fourth largest inland lake in the world, covering 64,000 square kilometers and holding nearly "1,000 cubic kilometers of fresh water suitable to all human purposes."⁷ Previous to its destruction, fishing, trapping and lumber industries thrived due to the Aral Sea's wealth. Small vessels crossed the Aral Sea, carrying sturgeon from the Aral waters, as well as muskrat pelts and black saxaul wood from the Aral banks.⁸ Yet, due to government irrigation demands for a growing cotton industry, the two rivers feeding into the Aral, the Syr Darya and the Amu Dayra, were mandated. Within a short twenty-five years following the initial diversion, the fertile environment of the Aral region was destroyed. The Sea itself dwindled into two smaller lakes separated by a huge desert chasm. Each of the smaller lakes is now filled with shallow saline saturated water and dying fauna. The remaining part in between the two lakes has become an extremely salted desert, creating uncontrollable salt-saturated wind storms. These storms whip through the Kazakhstan region causing contamination of agricultural plants in the far regions of Siberia and rendering the life of the local people unbearable.⁹

6. The depletion of the Aral Sea can be traced to a 1960s Soviet era plan which "turned Uzbekistan into the world's third-largest cotton producer." The plan diverted Central Asia's two main rivers, the Amu and Syr, which fed the Aral, into a huge desert irrigation project. Steve LeVine, *Aral Sea's Defenders Suspend Fight To Save It: Local Groups Shift Efforts To River Deltas*, WASH. POST, Sept. 9, 1994, at A31.

7. *The Murder of the Aral Sea*, 27 MOSCOW NEWS, July 1, 1992, at 28.

8. *Id.* Annually, the Aral yielded up to 50,000 sturgeon and over 1,000,000 muskrat pelts. *Id.*

9. Some commentators believe that it will take from one dozen to several dozen years to rehabilitate the Aral sea, even if urgent measures are taken for artificially replenishing the sea immediately. *It's Better to be a Pessimist, Than an Optimist*, 12 ZELENY MIR., 1993, at 14, 15. However, replenishing the Aral Sea appears drastically expensive and practically difficult. Instead, this author believes that present actions should concentrate on thwarting further depletion of Aral waters. See, e.g., *Inter-State Fund To Save the Aral*, 20 ZELENY MIR., 1993, at 2 (describing a conference between several Central Asian and Euro-

Due to such drastic changes, the risk of natural global emergencies and calamities has grown. The Aral Sea previously acted as a "fulcrum in the ecology and weather patterns" in this area of the world.¹⁰ Previously, the natural evaporation process of nearly one meter of water annually from the Aral Sea deflected cold currents of air into high altitudes, where they drifted to the Pamir Mountains before condensing and replenishing the Pamir glaciers. Now, however, these cold air currents rest in the Aral Sea region, dropping temperatures to -17° Celsius.¹¹ Scientists predict that without continued replenishment of the Pamir glaciers from these cold air currents, intense snow melting in the Pamir and Himalayan Mountains could occur, thus stimulating global climatic changes.¹²

The state of marine fish resources in the coastal waters of Russia arouses similar anxiety. Until the 1960s, Russia was a country with an abundance of natural stocks of valuable fish species. Salmon and sturgeon made up about 80% of the total annual catch. Most of the catch came from inland seas, especially the rich waters of the Caspian, the Azov, the Aral, and the large Balkhash Lake. However, due to pollution and over-harvesting of fish stocks in inland waters, fish populations have been depleted or driven to extinction.¹³ To compensate for freshwater fishing losses, Russia has recently concentrated efforts on marine fisheries, creating an expensive and powerful marine fishing industry. As a result, the anthropogenic pressure on the marine ecosystem has increased. The situation continues to be aggravated by large-

pean states which seek to develop an assistance program for further combatting deterioration of the Aral Sea).

10. MOSCOW NEWS, *supra* note 7, at 28.

11. *Id.*

12. *Id.*

13. Massive mining for oil, oil pollution and excessive fish poaching have traditionally been the causes for the depletion of salmon; however, recently, geological gold mining has also become a major contributor to environmental destruction. Igor Maltsev, Gold Fish, 18 MOSCOW NEWS WEEKLY, Apr. 29, 1992, at 36. The Goltsovka River and the Kameshkovaya-Obeshchanaya River have both suffered the effects of geological mining, the most drastic results occurring in the Kameshkovaya-Obeshchanaya River where now "no trace of salmon" is found to exist. *Id.*

scale poaching, general neglect and unpenalized violations of resource conservation legislation.

To a large extent, the problems of desertification and fish stock depletion emerged as a result of long-standing Russian economic policies. Desertification in Kalmykia was caused by both overgrazing and a narrow orientation of the region on cattle-breeding.¹⁴ Likewise, intensive irrigation demands for a growing cotton industry in the Aral region forced the diversion of two crucial rivers which feed into the Aral Sea.¹⁵ The diversion of these rivers may be directly linked to the demise of the Aral Sea itself.

Present Russian political and economic reforms continue to create ecological destruction. Privatization and liberalization of trade relations encourage over-utilization of natural resources rather than managed care and sustainable yield. While a reorientation of the Russian economy is a necessary measure to deal with the problems of desertification and fish stock depletion in the country, the economic crisis currently in Russia prevents the reorientation of the economy. Moreover, although an ecologically sound investment policy could be a long-range strategy to change the direction of unrestricted exploitation of natural resources, the Russian investment policy could hardly be considered environmentally concerned. Instead, investment priorities are given to development projects in the Siberian and the Northern forests, and oil production in the continental shelf. Thus, the danger of creating further ecological problems remains.

In the face of such environmental degradation, the importance of international agreements must be recognized. Treaties can become an important defense against practices that further promote ecologically unsound national policies. The policies expounded in the Desertification Convention and the Straddling Fish Draft Agreement may set the outer limits

14. Presently, 83% of the previously fertile pastures of Kalmykia are degraded. Upon scientific assessments, by the year 2030 the whole area will become a dead desert that is considered as an ecological threat of a European scale. See 19 ZELENY MIR., *supra* note 3, at 2.

15. The two crucial rivers which feed into the Aral Sea are the Syr Darya and the Amu Darya. See *supra* note 6 and accompanying text.

to trends of ecological deterioration in Russia and internationally.

III. The Main Innovations of the Treaties

Both the Straddling Fish Draft Agreement¹⁶ and the Desertification Convention¹⁷ contain rather strong mechanisms by which nations can limit degradation of their resources. Although the two Agreements are both based on the international law of cooperation for achievement of their proclaimed aims,¹⁸ the mechanisms by which these treaties achieve their aims differ in significant ways.

The Straddling Fish Draft Agreement stems from the principle of strict mutual control of the Parties over each other's fishing practices.¹⁹ The Straddling Fish Draft Agreement outlines unambiguous requirements for the Party States by establishing definitive rights and duties of signatory parties. Additionally, the treaty contains explicit liability provisions. These provisions serve as a strong financial incentive to individual nation-states by imposing a cost ratio upon them if liability is found.²⁰

Here the long-term aim to stop degradation of nature could be attained through fair and rational distribution of

16. *Straddling Fish Draft Agreement*, *supra* note 1, at 1.

17. *Desertification Convention*, *supra* note 2, at 1.

18. The Desertification Convention provides that the Parties should collaborate with each other to ensure the implementation of the Convention, which in turn will promote an enabling international environment. *Desertification Convention*, *supra* note 2, pt. III, art. 12. Similarly, the Straddling Fish Draft Agreement requires all States to comply with reasonable requests in the investigation of violations of the agreement. *Straddling Fish Draft Agreement*, *supra* note 1, pt. V, art. 19(1). The agreement also compels Parties to cooperate in identifying vessels suspected of violating its provisions and to make evidence available to the appropriate prosecuting authorities. *Straddling Fish Draft Agreement*, *supra* note 1, pt. V, art. 19(3), (4).

19. The Agreement authorizes a Party State to board and inspect a fishing vessel that it suspects of impersonating another State. *Straddling Fish Draft Agreement*, *supra* note 1, pt. V, art. 20(2). This authorization includes provisions that allow the arrest and detention of the suspected impersonating ship. *Id.*

20. For example, the Agreement authorizes a Party State to institute proceedings in accordance with international law where there is evidence that a vessel has been fishing on the high seas without a nationality. *Straddling Fish Draft Agreement*, *supra* note 1, pt. V, art. 20(3).

common natural wealth. Economic interest is a motivation for collective actions to preserve the fish resources.²¹

By contrast, the Desertification Convention presents a well balanced plan of measures to be taken by its Parties with an assistance mechanism forming its basis.²² The Convention does not impose clearly defined obligations of the Parties, and provisions for liability are acutely absent. The lack of liability provisions in the Desertification Convention probably stems from the minor short-term economic effects countries experience due to desertification. Thus, without economic incentives, the primary compelling factor to avoid desertification is an understanding by all States of the danger of the world-wide desertification.

Some authors believe that the degradation of nature may be thwarted by distributing expenses and international assistance to countries affected by desertification.²³ National policies could also be redirected to focus on environmental areas within a state's boundaries. Many African countries already plagued by the effects of desertification would benefit by such an approach.²⁴ This redistribution policy would focus economic and political concern for desertification on both an international and national level.

21. Party States are required to ensure that conservation and management measures are designed to maintain stocks at a level that will produce the maximum sustainable yield. *Straddling Fish Draft Agreement, supra* note 1, pt. II, art. 5(b).

22. The Desertification Convention provides that developed countries are to actively support the efforts of developing country Parties to combat desertification and mitigate the effects of drought. *Desertification Convention, supra* note 2, pt. II, art. 6. In addition, the developed country Parties are to provide financial resources, as well as promote and facilitate access of the developing country Parties to the appropriate technological knowledge. *Id.*

23. The Desertification Convention requires developed country Parties to "provide substantial financial resources and other forms of support to assist affected developing country Parties . . . and the least developed countries, to combat desertification and mitigate the effects of drought[.]" *Desertification Convention, supra* note 2, pt. II, art. 6.

24. The Desertification Convention provides that priority should be given to African country Parties in the implementation of the obligations of the developed country Parties. *Desertification Convention, supra* note 2, pt. II, art. 7. See also *Desertification Convention, supra* note 2, Annex I.

The strict mutual control method utilized by the Straddling Fish Draft Agreement and the assistance mechanism approach used by the Desertification Convention differ by virtue of two international problems: the question of demographics and the issue of jurisdiction.

IV. The Effectiveness of Implementation Schemes Under the Treaties

The potential effectiveness of a treaty's means of implementation is an important question which naturally arises upon its inception. Both the agreements concerning conservation of fish stocks and desertification contain potentially effective implementation mechanisms.

The Straddling Fish Draft Agreement establishes the duty of coastal States and those States fishing on the high seas to cooperate in the adoption of conservation and management measures.²⁵ The Straddling Fish Draft Agreement requires these coastal and fishing States to bring about such conservation and management measures primarily through the establishment of regional and sub-regional organizations within their specific marine regions.²⁶ The Straddling Fish Draft Agreement grants the member States wide regulatory and enforcement authority within these regions.²⁷ The Straddling Fish Draft Agreement empowers these regional or sub-regional organizations to introduce conservation and management measures for their particular straddling or highly migratory fish stocks.²⁸

Upon establishment of such regulated marine regions, fishing States and coastal States are "to give effect to their duty to cooperate by participating in the work" of the regional organizations.²⁹ Membership in the regional fisheries' management organizations is open to all states having an interest in the stocks regulated.³⁰ More importantly, only the states

25. *Straddling Fish Draft Agreement*, *supra* note 1, pt. II, art. VIII.

26. *Id.*

27. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. VIII.

28. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. IX.

29. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. IX.

30. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. VIII.

which participate in such organizations will have access to the fisheries within the regional organization's jurisdiction.³¹

The Straddling Fish Draft Agreement empowers these regional organizations to regulate the allocation of allowable catch and to adopt recommended international minimum standards regarding fishing techniques and fishing conduct.³² The Straddling Fish Draft Agreement also allows members of regional organizations to vest inspection powers in the officials of a particular member State to arrest and detain vessels violating the requirements.³³

In addition, the Straddling Fish Draft Agreement grants enforcement authority to port and flag states alike.³⁴ National legislatures of the member States under the Straddling Fish Draft Agreement will adequately authorize their own officials to control and punish offending vessels sailing under their flag.³⁵ The member States may seek assistance in such enforcement actions and in turn are expected to render assistance in finding and investigating violations committed by other vessels.³⁶

The Straddling Fish Draft Agreement authorizes port States to board and inspect vessels voluntarily entering their ports.³⁷ In cases of suspected violations, the Straddling Fish Draft Agreement authorizes the port States to maintain control over a suspected vessel while the port State's authorities inform the ship's respective flag State.³⁸

Other important provisions within the Straddling Fish Draft Agreement concern each member State's duty to collect and exchange information, including scientific advice, technical and statistical data, and implementation reports.³⁹ The Straddling Fish Draft Agreement gives special attention to

31. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. VIII.

32. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. VIII.

33. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. IX.

34. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XIV.

35. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XII.

36. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XIX.

37. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XIV.

38. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XVII.

39. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. IX, X.

the interests of developing countries and coastal States dependent on regulated fish stocks.⁴⁰

While the Straddling Fish Draft Agreement's regulatory measures provide the external control needed to guarantee mutual compliance with each region's conservation and management requirements, the measures are also meant to encourage the region's member states to implement their own similar conservation and management measures.⁴¹ The member States adoption of their own similar conservation and management measures is an important prerequisite to successful implementation of the Agreement.

The measures set out by these treaties are desperately needed in Russia. For instance, the Straddling Fish Draft Agreement requires states to establish and enforce efficient punishment measures for violation of fish protection rules.⁴² The Criminal Code of Russia also punishes similar violations by confiscation of property and a maximum prison sentence of not more than four years.⁴³ However, the punishment is rarely applied and thus ineffective. Administrative penalties and compensation remain the predominant forms of punishment for violation of fishing rules. Yet, high inflation, high food prices and the ensuing potential for high profits from poached fish make these punishments practically useless as deterrents. Thus, Russia must review its currently inadequate conservation and management measures and introduce more effective ones.

Another problem is Russia's lack of institutional systems to enforce more effective conservation and management measures. In Russia, the only state entity responsible for the regulation and enforcement of fishing rules is the economically oriented Committee for Fishing.⁴⁴ Another administra-

40. *Straddling Fish Draft Agreement*, *supra* note 1, pt. V, art. XIX.

41. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. VIII, IX.

42. *Straddling Fish Draft Agreement*, *supra* note 1, pt. III, art. XIV-XVIII.

43. UK RSFSR, Art. 163 (1993).

44. SP SSSS, No. 208 (1993) (establishing the guidelines presented by the federal Russian Federation Fishing Committee). The federal Russian Federation Fishing Committee is a federal agency responsible for regulation and inter-agency coordination with respect to protection and rational use of fish and other aquatic animals. *Id.* The Committee is responsible for issuing fishing permits,

tive agency, the Ministry on Environmental Protection (MEP), was organized in principle to control economic activities; however, due to administrative constraint, it unfortunately cannot significantly influence general fishing practices. The MEP is hampered by a lack of resources and a weak position within the government's institutional system. Furthermore, MEP environmental concerns hold a generally low priority position within the government's developmental hierarchy.⁴⁵ Consequently, even with the adoption of new conservation and management measures by the international community, the state of the environment in Russia will probably not improve without mandatory, radical institutional change. The establishment of multilateral inspections within the regional organizations with mandatory involvement of the member State's environmental protection agencies could be one way of ensuring that member States similar to Russia implement the necessary conservation and management measures. The treaties should include such protocols.

To ensure long-term conservation of marine fishing resources, it seems necessary to improve technology in the fishing industry and even to restructure the economy. This is a difficult but attainable task. Presently, approximately one-third of the total catch is lost in transportation, storage and processing, and another substantial portion of the catch is used for feeding fur-bearing animals. Reform measures which rehabilitate inland fish stocks and which introduce efficient technologies and equipment to the fishing industry should be considered. Even the reduction of fish resources as the primary feed stock for the fur industry could ameliorate inappropriate use of the catch. Such specific provisions would be important additions to the Straddling Fish Draft Agreement.

allocation of catch, regulation of fishing methods, inspection and policing of violators. *Id.*

45. SP SSSR, No. 375 (1994) (implementing regulations on the Ministry of the Environment and Natural resources). The Ministry must fulfill two main tasks: implement a unified national ecological policy and coordinate the environmental and natural resources activities of all administrative entities at all levels. *Id.* The Ministry is also empowered to arrange for and fulfill state ecological control which is generally centered on fish resources protection. *Id.*

The Desertification Convention also promises to be potentially effective. It uses an integrated approach that recognizes the worldwide desertification problem. The treaty recognizes the close link between socio-economic factors such as poverty, malnutrition, and technological deficiencies and desertification. The Convention provides for a comprehensive approach to these problems.

The implementation mechanism is based upon the honoring of two interconnected obligations of the treaties' parties. The first is the obligation of the affected countries to prepare national action programs. The second is the obligation of developed countries to provide substantial financial and other assistance in the preparation and implementation of these programs.⁴⁶ The Desertification Convention provides detailed outlines of national action programs that envisage drought preparedness and management measures,⁴⁷ establishment of livelihood projects,⁴⁸ and development of sustainable irrigation programs.⁴⁹ These operational measures are combined with long-term strategic actions to be taken by the affected countries. These strategic actions include development of preventive measures to protect lands not yet degraded,⁵⁰ integration with sustainable development policies,⁵¹ and improvement in cooperation between the donor community, governments at all levels, local populations and community groups.⁵²

V. Categories of States Under the Treaties

The Desertification Convention contains explicit provisions concerning sources of support and assistance for appropriate national actions.⁵³ In particular, it is envisaged to undertake complicated scientific research programs aimed to

46. *Desertification Convention*, *supra* note 2, pt. II, art. 5.

47. *Desertification Convention*, *supra* note 2, pt. III, art. 10.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Desertification Convention*, *supra* note 2, pt. III, art. 10.

52. *Id.*

53. *Desertification Convention*, *supra* note 2, pt. III, art. 9.

increase knowledge about processes that lead to desertification, to promote transfer of technologies, and to conduct training in efforts to combat desertification.⁵⁴ All of these expensive activities are to be financed from national and international sources of affected and developed countries.⁵⁵ The Desertification Convention calls for efforts to mobilize necessary financial resources for these purposes.⁵⁶

Although the Desertification Convention acknowledges that desertification requires substantial resources, such financial dependence, in my view, makes the Convention vulnerable. The refusal to make appropriations and investments under many available favorable options may create an absence of resources, putting enforcement measures of the Convention at risk. In this case, the Convention could share the destiny of other treaties, which have failed to fully accomplish their role in protecting the environment. A possible solution could be to further specify and strengthen those provisions which concern international economic and trade relations. Perhaps joint protocols and multinational implementation agreements could be specifically fashioned to reduce the depletion of natural resources in affected countries.

Another factor could also lower the efficiency of international efforts in this field. Throughout the text, the Parties to the Desertification Convention are categorized. These categories include: developed countries, developing countries, affected developing countries, simply affected countries, and least developed countries. Yet, despite the many categories, only two definitions are provided: that of affected countries⁵⁷ and that of developed countries.⁵⁸ Depending upon the cate-

54. *Desertification Convention*, *supra* note 2, pt. III, art. 17.

55. *Desertification Convention*, *supra* note 2, pt. III, art. 20.

56. *Desertification Convention*, *supra* note 2, pt. III, art. 20.

57. Affected countries are defined under the Convention as, ". . . countries whose lands include, in whole or in part, affected areas." *Desertification Convention*, *supra* note 2, pt. I, art. I(i). Affected areas are defined as, ". . . arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification." *Id.*, pt. I, art. I(h).

58. Developing countries are defined under the treaty as, ". . . developed country Parties and regional economic integration organizations constituted by developed countries." *Desertification Convention*, *supra* note 2, pt. I, art. I(k).

gory, mutual rights, obligations, and actions to be taken could be substantially different.

There are three major uncertainties in the Desertification Convention relating to affected and developed countries. First, under present definitions, it remains unclear which category would best apply to countries such as Russia, which are both affected and developed. Second, uncertainties exist in deciding which country Parties would be primarily responsible for providing support to other affected countries. Third, the question remains which country Parties would concentrate on their own desertification problems, instead of providing support to other affected countries. These theoretical uncertainties are underscored by vague and contradictory provisions. For example, Article 9(2) provides for priority support in preparing action programs to "affected developing country Parties, particularly those in Africa",⁵⁹ while Article 13 envisages that in providing support in elaboration and implementation of action programs, priority shall be given not only to affected developing countries in Africa, but least developed countries too.⁶⁰

This uncertainty could reduce interest in implementation, and negatively influence efficiency of an urgent international program to resolve the problem of global desertification. Moreover, there is no provision for re-categorizing a nation, if its circumstances change.

VI. Conclusion

Implementation problems arise now in respect to many international environmental treaties. The Straddling Fish Draft Agreement and the Desertification Convention are no different, and it is difficult to predict how these two treaties will develop. The test will be whether states can use these treaties to stop desertification of the earth's agricultural lands and prevent man's annihilation of the earth's food supply of fish through overfishing and waste.

59. *Desertification Convention*, *supra* note 2, pt. III, art. 9.

60. *Desertification Convention*, *supra* note 2, pt. III, art. 13.