

International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

Theme III
Oceans and Fisheries Management



International Collective in Support of Fishworkers
27 College Road, Chennai, India

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Introduction

This theme includes three binding instruments (one convention and two agreements) and ten legally non-binding instruments (which include the Code, plan of actions, and resolutions from meetings). The theme also includes resolutions from the United Nations General Assembly (UNGA), that are relevant to oceans and the Law of the Sea.

The United Nations Convention on the Law of the Sea (UNCLOS 1982), often referred to as the “constitution of the sea”, is one of the most significant international instruments of the 20th century. It establishes a set of rules for the oceans, covering ocean space, including navigation and overflight uses; territorial sea limits; conservation and management of living marine resources; protection of the marine environment; marine research regime; and a binding procedure for settlement of disputes between States. UNCLOS gave coastal States rights and responsibilities to manage and use fishery resources within their exclusive economic zones (EEZs). UNCLOS is supplemented by two agreements dealing, respectively, with seabed mining, and straddling and highly migratory fish stocks. The United Nations Fish Stocks Agreement (UNFSA, 1995) provides a legal framework for the conservation and management of straddling and highly migratory fish stocks, based on the precautionary approach.

By the late 1980s, it was clear that fisheries resources could not be exploited in an uncontrolled fashion, and calls for new approaches to fisheries management began to be made. This was addressed at the International Conference on Responsible Fishing, (Cancun Conference, 1992). The outcome Cancun Declaration called for the preparation of an international code of conduct to address the issue of fisheries management. This declaration also contributed to the 1992 UNCED process and to Agenda 21. Subsequent to UNCLOS, in order to effectively control activities of the fishing vessels flying their flags, States adopted the 1993 Compliance Agreement at a conference of the Food and Agriculture Organization of the United Nations (FAO). Following the Cancun Declaration, in 1995, the Code of Conduct for Responsible Fisheries was adopted. This establishes principles and standards for the conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity. The Code, a voluntary instrument, also recognizes the nutritional,

economic, social, environmental and cultural importance of fisheries, and the interests of all those concerned with the fishery sector. Within the framework of the Code, FAO also adopted International Plans of Action (IPOAs), which are voluntary instruments elaborating the Code. There are four IPOAs to date— IPOA for reducing incidental catch of seabirds in longline fisheries; IPOA for the conservation and management of sharks; IPOA for the management of fishing capacity; and IPOA to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing. The most recently adopted voluntary instrument to elaborate the Code is the Strategy for Improving Information on Status and Trends of Capture Fisheries. This provides a framework, strategy and plan for the improvement of knowledge and understanding of fishery status. The basic principles of the Code are reflected in these instruments.

The importance of sustainable fisheries and the need to incorporate ecosystem considerations in fisheries management plans were highlighted at the Conference on Responsible Fisheries in the Marine Ecosystem (Reykjavik Conference, 2001) and the subsequent Declaration.

This handbook also compiles selected resolutions of the UNGA related to this section—“oceans and law of the sea”—and on issues relating to sustainable development and fisheries management. One of the first resolutions of UNGA called for moratoria on large-scale pelagic drift-net fishing, to ensure the conservation of living marine resources. Subsequent resolutions cover issues ranging from unauthorized fishing, discards, sustainable development in fisheries, bycatch management, implementation of the 1995 Fish Stocks Agreement, and implementation of UNCLOS, to a most recent one on sustainable fisheries. These resolutions re-emphasize the need for States to develop sustainable fisheries management practices, and implement the provisions of these legal instruments.

UNCLOS, the 1995 Fish Stocks Agreement and the 1993 Compliance Agreement are the three important legally binding instruments on issues related to oceans and fisheries management, while the other instruments are non-binding or voluntary.

1982 United Nations Convention on the Law of the Sea

SHORT TITLE

Law of the Sea Convention

ACRONYM

UNCLOS

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Treaty

OBJECTIVES

To establish a legal order for the seas and oceans which will facilitate international communication, and promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment (Preamble, para. 4).

CONTENTS

Preamble, 320 articles and 9 annexes

DATE OF ADOPTION

10 December 1982

PLACE OF ADOPTION

Montego Bay, Jamaica

OPENED FOR SIGNATURE

10 December 1982

DATE OF ENTRY INTO FORCE

16 November 1994

SIGNATORIES

157

RATIFICATIONS

148 (as at 1 February 2005)

ADDITIONAL INSTRUMENTS

- 1) Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea
- 2) 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

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

United Nations General Assembly¹

Decision-making body

Meeting of States Parties (art. 319(2)(e) and SPLOS/119, paras 78-89)²

Bodies established under the Convention

- Commission on the Limits of the Continental Shelf (CLCS)
- International Seabed Authority (ISA)
- International Tribunal for the Law of the Sea (ITLOS)

¹ The General Assembly is the main deliberative organ of the United Nations. Oversight function of matters relating to ocean affairs and the law of the sea has been carried out by the General Assembly.

² There are opposing views on the role of the Meeting of States Parties and the scope of the decisions it may take. For current information on this issue, see document SPLOS/119, paras. 78-89.

Consultation mechanism

United Nations Open-ended informal consultative process on oceans and the law of the sea (UNICPOLOS)

Dispute settlement

Part XV of UNCLOS is on settlement of disputes. The primary obligation of the parties under Part XV is to settle their disputes by peaceful means. (Article 279) Only if States are unable to resolve a conflict by their own means, is it necessary to invoke the compulsory and binding mechanisms of section 2 of Part XV.

Periodicity of meetings

The Meeting of States Parties is generally held once a year. (There have been 14 Meetings of States Parties till 2004 and one special meeting in 2003.)

The General Assembly of the United Nations meets in regular sessions once a year, generally from September to December.

Participation in meetings

Meeting of States Parties

Voting rights: All States Party to the Convention. Each State Party has a vote.

Observers: The following, if they are not Parties to the Convention, may participate as observers in Meetings:

- (a) States that have signed the Convention;
- (b) International organizations referred to in Annex IX of the Convention;
- (c) Entities referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e), of the Convention;
- (d) Signatories to the Final Act of the Third United Nations Conference on the Law of the Sea.

- 3. The International Seabed Authority may participate as an observer.

- 4. The specialized agencies of the United Nations system, the International Atomic Energy Agency and other intergovernmental organizations that are invited to the Meeting may also participate as observers.
- 5. Non-governmental organizations recognized by the Economic and Social Council whose fields of competence are relevant to the law of the sea and other non-governmental organizations invited by the Meeting of States Parties which have demonstrated their interest in matters under the consideration of the Meeting may also participate as observers.
- 6. Representatives of observers referred to in paragraphs 1, 2 and 3 of this rule may participate, subject to the provisions of these rules, in the deliberations of the Meeting but shall not be entitled to participate in the taking of decisions. Observers referred to in paragraphs 4 and 5 of this rule may designate representatives to sit at public meetings of the Meetings of States Parties and, upon invitation by the President and subject to the approval by the Meeting, may make oral statements and submit written statements on questions within the scope of their activities.

Information on participation in the Meetings of States Parties and other subsidiary bodies can be found at <http://www.un.org/depts/los>

United Nations General Assembly

Voting rights: All Member States of the United Nations. Each Member State has one vote.

Observers: Non-member states and other intergovernmental organizations can be

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present as observers at the General Assembly. NGOs do not enjoy official consultative status with the General Assembly, although they are allowed to participate in its activities by invitation.

Secretariat

Division for Ocean Affairs and the Law of the Sea (DOALOS)

Office of Legal Affairs

Room DC2-0450

United Nations

New York, NY 10017

USA

Tel: 1 212 963 3962

Fax: 1 212 963 5847

Website: www.un.org/depts/los

RECENT UNGA RESOLUTIONS RELEVANT TO UNCLOS

Resolution 57/33 (adopted at the 52th plenary meeting of the 57th session of the United Nations General Assembly on 12 November 2002) on “Plenary meetings of the General Assembly on 9 and 10 December 2002 devoted to the consideration of the item entitled “Oceans and the law of the sea” and to the commemoration of the twentieth anniversary of the opening for signature of the United Nations Convention on the Law of the Sea

Resolution 58/240 (adopted at the 79th plenary meeting of the 58th session of the United Nations General Assembly on 23 December 2003) on “Oceans and the Law of the Sea”

Resolution 59/24 (adopted at the 59th session of the United Nations General Assembly on 17 November 2004) on “Oceans and the Law of the Sea”

ADDITIONAL INFORMATION

1. Texts of resolutions adopted by the UN General Assembly with regard

to the LOS can be found in http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm

2. Annual reports of ITLOS give information on cases settled by the tribunal (www.itlos.org).

SELECTED ARTICLES

Article 51

Existing agreements, traditional fishing rights and existing submarine cables

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters.

The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

Article 61

Conservation of the living resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.
2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent

international organizations, whether subregional, regional or global, shall cooperate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependency of stocks and any generally recommended international minimum standards, whether subregional, regional or global.
4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.
5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62

Utilization of the living resources

1. The coastal State shall promote the objective of optimum utilization of

the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.
3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.
4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

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- (a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;
 - (b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;
 - (c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used;
 - (d) fixing the age and size of fish and other species that may be caught;
 - (e) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;
 - (f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;
 - (g) the placing of observers or trainees on board such vessels by the coastal State;
 - (h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;
 - (i) terms and conditions relating to joint ventures or other cooperative arrangements;
 - (j) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;
 - (k) enforcement procedures.
5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 69

Right of land-locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.
2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:
 - (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
 - (b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
 - (c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent

need to avoid a particular burden for any single coastal State or a part of it; (d) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties.

In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.
5. The above provisions are without prejudice to arrangements agreed

upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70

Right of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.
2. For the purposes of this Part, “geographically disadvantaged States” means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.
3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*: (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal

- State; (b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States; (c) the extent to which other geographically disadvantaged States and landlocked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it; (d) the nutritional needs of the populations of the respective States.
4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.
 5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.
 6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 73

Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.
2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.
3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or

any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Section 2 of Part VII of UNCLOS: Conservation and Management of the Living Resources of the High Seas (articles 116 to 120)

KEYWORDS

UNCLOS, fisheries management, straddling fish stocks, highly migratory fish stocks, EEZ, territorial seas, high seas, port state, fishing communities, flag state, conservation, protection, marine environment, marine resources, pollution, fisheries agreements, seabed, natural resources, crew, fishing vessels, transportation, navigation, fishing rights, continental shelf, arrests, imprisonment; law of the sea

RELEVANCE TO FISHERIES/ FISHWORKERS

The 1982 Convention marks the culmination of more than 14 years of negotiations, and is often referred to as the “constitution for the oceans”. Under UNCLOS, coastal States exercise sovereignty in their 12-nautical mile territorial sea (Article 2). They have sovereign rights in the 200-nautical mile exclusive economic zone (EEZ) with respect to the exploration and exploitation, and conservation and management of natural resources and certain economic activities (Article 56(1)(a)).

In effect, the Convention gives coastal States rights and responsibilities for the management and use of marine living

resources within the areas of their national jurisdiction, up to the 200-nautical mile EEZ, which effectively comprises about 90 per cent of the world’s marine fisheries.

The Convention requires coastal States to ensure, through proper conservation and management measures, that the maintenance of the living resources in the EEZ is not endangered by overexploitation. It also requires States to co-operate with competent international organizations, whether subregional, regional or global, towards this objective.

It further recognizes the right of other States to have access to an appropriate part of the surplus of marine living resources of the EEZ of the coastal State through agreements or arrangements with such coastal States (Article 62 (2)).

It outlines the right of land-locked States and geographically disadvantaged States to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the EEZ of coastal States of the same region or subregion, through bilateral, subregional or regional agreements (Articles 69 and 70).

The Convention requires coastal States to co-operate with other States in the conservation and management of stocks occurring within the EEZs of two or more coastal States or both within the EEZs and the high areas adjacent to them (Article 63). It requires the coastal State and other States whose nationals fish for highly migratory species to co-operate directly or through appropriate international organizations, in conserving and promoting the optimum utilization of such species, both within and beyond the EEZ. It further requires coastal States and other States whose nationals harvest

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these species to co-operate to establish such an organization in regions for which no appropriate international organization exists (Article 64). Highly migratory species are listed in Annex I to the Convention.

Articles 116 to 119 of UNCLOS highlight the obligation of all States in the conservation and management of high-seas fishery resources.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The convention asks States to take into account relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, while taking measures to conserve and manage the living resources of the EEZ (Article 61).

According to Article 62(2), where the coastal State does not have the capacity to harvest the entire allowable catch, it shall give access to other States to the surplus of allowable catch in its EEZ. The article states, however, that the coastal State shall, in this process, take into account all relevant factors, including the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone. (Article 62(3)).

Article 62(4) obliges nationals of other States fishing in the EEZ of a coastal State to comply with conservation measures

and with the other terms and conditions established in the laws and regulations of the coastal State. Conditions placed may include, among other things, licensing of fishermen, fishing vessels and equipment; determining the species and fixing quotas; regulating harvesting seasons, areas and methods; laying down the terms and conditions for joint ventures; requiring the catch to be landed in the ports of the coastal State; and specifying the information to be submitted. This article is of relevance to small-scale fishworkers from countries that have entered into fisheries access agreements or other arrangements giving access to foreign fishing vessels.

According to Article 73, a coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the EEZ take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with the Convention. It further states that arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security (Article 73(2)) and that coastal State penalties for violations of fisheries laws and regulations in the EEZ may not include imprisonment or any other form of corporal punishment, in the absence of agreements to the contrary by the States concerned (Article 73(3)). The provisions of this article are of relevance to fishers detained and arrested for fisheries violations in several parts of the world, as in the Indian Ocean region.

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

SHORT TITLE

United Nations Fish Stocks Agreement

ACRONYM

UNFSA

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Treaty

OBJECTIVES

To ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention (Article 2).

CONTENTS

50 Articles in 13 Parts; 2 Annexes

DATE OF ADOPTION

4 August 1995

PLACE OF ADOPTION

New York, USA

OPENED FOR SIGNATURE

4 December 1995

DATE OF ENTRY INTO FORCE

11 December 2001

SIGNATORIES

59

RATIFICATIONS

52 (as at 16 November 2004)

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

United Nations General Assembly (UNGA)³

Consultation mechanism

The Informal Consultations of States Parties, review, *inter alia*, the implementation of the Agreement and make appropriate recommendations to the General Assembly of the United Nations.

Monitoring and implementation

Review Conference: According to Article 36 of the Agreement, four years after the

³ The General Assembly is the main deliberative organ of the United Nations. Oversight function of matters relating to ocean affairs and the law of the sea has been carried out by the General Assembly.

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entry into force of the agreement, a review conference with a view to assessing the effectiveness of the agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks is to be convened. The Secretary-General of the United Nations shall invite to the review conference all States Parties and those States and entities which are entitled to become parties to the Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers (Article 36(2)).

Periodicity of the informal consultations of States Parties

Once a year.

The first Informal Consultation of the States Parties was held one year after the agreement entered into force (in 2002). Subsequently, consultations were held in 2003 and 2004. These consultations are held pursuant to requests contained in relevant United Nations General Assembly resolutions.

Participation in the informal consultations of States Parties

All States Parties are entitled to participate in the Informal Consultations, as full participants. Non-States Parties, UN Specialized Agencies, regional fishery bodies and arrangements and relevant non-governmental organizations are invited to attend the informal meetings of States parties as observers (see A/RES/57/143, para 18 and A/RES/58/14, para. 13).

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GUIDELINES

UNFSA includes 2 Annexes: Annex I addresses “Standard Requirements for the Collection and Sharing of Data” and Annex II deals with “Guidelines for the Application of Precautionary Reference Points in Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks”.

REGIONAL INSTRUMENTS RELEVANT TO UNFSA

- Convention for the Conservation of Southern Bluefin Tuna (CCSBT)
- Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean
- Framework Agreement for the Conservation of the Living Marine Resources of the High Seas of the South Pacific (“Galapagos Agreement”)
- Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean
- Council of the Eastern Pacific Tuna Fishing Agreement (CEPTFA)
- Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)

REGIONAL BODIES RELEVANT TO UNFSA

- General Fisheries Council for the Mediterranean (GFCM)
- Organization of the Permanent Commission of the South Pacific
- Eastern Pacific Tuna Fishing Organization
- South Pacific Forum Fisheries Agency
- Indian Ocean Tuna Commission (IOTC)

- International Commission for the Conservation of Atlantic Tunas (ICCAT)
- Commission for the Conservation of Southern Bluefin Tuna (CCSBT)
- Inter-American Tropical Tuna Commission (IATTC)
- Southwest Indian Ocean Fisheries Commission (SWIOFC)
- North East Atlantic Fisheries Commission (NEAFC)
- South East Atlantic Fisheries Organization (SEAFO)
- North Pacific Anadromous Fish Commission (NPAFC)

RECENT UNGA RESOLUTIONS RELEVANT TO UNFSA

Resolution 59/25 adopted at the 59th session of the United Nations General Assembly on 17 November 2004 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”

SELECTED ARTICLES

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply

within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply *mutatis mutandis* the general principles enumerated in article 5.
3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies *mutatis mutandis* in respect of areas under national jurisdiction.

Article 5

General Principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

- (a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;
- (c) apply the precautionary approach in accordance with article 6;
- (f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of nontarget species, both fish and non-fish species, (hereinafter

Oceans and Fisheries Management

- referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
- (g) protect biodiversity in the marine environment;
 - (h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
 - (i) take into account the interests of artisanal and subsistence fishers;
 - (l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.
3. In implementing the precautionary approach, States shall:
- (a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;
 - (b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock specific reference points and the action to be taken if they are exceeded;
 - (c) take into account, *inter alia*, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socioeconomic conditions; and
 - (d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.
2. States shall be more cautious when information is uncertain, unreliable or inadequate.

The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

Part VII

Article 24

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to

conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:
 - (a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;
 - (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and
 - (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

KEYWORDS

UNCLOS, straddling fish stocks, highly migratory fish stocks, pollution, conservation, fisheries management, UNFSA, fishery data, habitat, high seas, fisheries, sustainable use, jurisdiction, precautionary principle, biodiversity, LAR, RFMO, Flag State, compliance, enforcement, agreement, small-scale fisheries, women, indigenous people

RELEVANCE TO FISHERIES/ FISHWORKERS

The Agreement provides the legal regime for the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks. Significantly, it requires States to “apply the precautionary approach widely” to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks (Articles 5 and 6). Among other things, States are required to minimize the impact of fishing on non-target and associated and dependent species and their environment. The Agreement also stresses the importance of adopting compatible conservation and management measures in areas under national jurisdiction and in the high seas (Article 7.2), throughout the geographic range of exploitation of fish stocks, in view of the biological unity of the stocks.

The Agreement requires coastal States and States whose fleets exploit highly migratory and straddling fish stocks to cooperate by, *inter alia*, joining subregional and regional fisheries organizations. In cases where these do not already exist, States are required to create new organizations.

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The Agreement lays out comprehensive provisions on compliance control, with an emphasis on flag State enforcement as well as on subregional and regional cooperation in enforcement (Articles 18 and 21). A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under UNCLOS and the Agreement (Article 18(2)). The Agreement provides also for port State control to promote the effectiveness of subregional, regional and global conservation and management measures (Article 23(1)).

Part VII of UNFSA addresses the special requirements of developing States in relation to the conservation and management of straddling fish stocks and highly migratory fish stocks. The Agreement provides also for the establishment of assistance funds to help developing States Parties in the implementation of the Agreement.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Article 5 (i) requires States to take into account the interests of artisanal and subsistence fishers, while giving effect to their duty to co-operate in accordance with the Convention.

Article 24. 2 (b) requires States to take into account the special requirements of developing States and, in particular, the need to avoid adverse impacts on, and ensure access to, fisheries by subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly Small Island Developing States, while adopting conservation and management measures for straddling and highly migratory fish stocks. These provisions are of relevance in view of the relatively large and growing number of small-scale and artisanal fishers targeting straddling and highly migratory fish stocks.

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

SHORT TITLE

Compliance Agreement

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

The Agreement aims to improve the regulation of vessels that fish on the high seas, in particular by requiring flag States to take such measures as may be necessary to ensure that vessels flying their flags do not engage in any activity that undermines the effectiveness of international conservation and management measures.

CONTENTS

Preamble and 16 Articles

DATE OF ADOPTION

24 November 1993

PLACE OF ADOPTION

Twenty-Seventh Session of the Food and Agriculture Organization of the United Nations (FAO) Conference

DATE OF ENTRY INTO FORCE

24 April 2003

RATIFICATIONS

29 (as on 7 December 2004)

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of the Food and Agriculture Organization of the United Nations (FAO)

Monitoring and implementation

Fisheries Department of the FAO

Periodicity of meetings

The FAO conference meets every two years.

Participation in meetings

Decision-making body: FAO Conference

Voting rights: Member States and Associate members of FAO

Observers: Non-members, intergovernmental organizations and according to Resolution No. 44/57, non governmental organizations in liaison status with FAO may be invited to send observers to Conference and Council sessions if, in the judgement of the Director-General, there are concrete reasons for inviting them which would forward the work of the Organization.

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SELECTED ARTICLES

Article II

APPLICATION

2. A Party may exempt fishing vessels of less than 24 metres in length entitled to fly its flag from the application of this Agreement unless the Party determines that such an exemption would undermine the object and purpose of this Agreement, provided that such exemptions:

- (a) shall not be granted in respect of fishing vessels operating in fishing regions referred to in paragraph 3 below, other than fishing vessels that are entitled to fly the flag of a coastal State of that fishing region; and
- (b) shall not apply to the obligations undertaken by a Party under paragraph 1 of Article III, or paragraph 7 of Article VI of this Agreement.

3. Without prejudice to the provisions of paragraph 2 above, in any fishing region where bordering coastal States have not yet declared exclusive economic zones, or equivalent zones of national jurisdiction over fisheries, such coastal States as are Parties to this Agreement may agree, either directly or through appropriate regional fisheries organizations, to establish a minimum length of fishing vessels below which this Agreement shall not apply in respect of fishing vessels flying the flag of any such coastal State and operating exclusively in such fishing region.

Article III

FLAG STATE RESPONSIBILITY

1. (a) Each Party shall take such measures as may be necessary

to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.

(b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled to fly its flag from the application of other provisions of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

3. No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.

KEYWORDS

Fishing vessel, high seas, vessel size, Flag States, fishing, FAO, international cooperation, dispute resolution, conservation, management, international measures, UNCLOS

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The FAO Compliance Agreement fits within a framework of multilateral, regional and bilateral agreements on the conservation and management of high-sea fisheries. The Agreement is consistent with the 1982 United Nations Convention on the Law of the Sea. It is also consistent, and has some overlap, with the 1995 United Nations Fish Stocks Agreement (UNFSA). Furthermore, it forms a central element of the FAO Code of Conduct for Responsible Fisheries, which sets out principles and standards of behaviour for responsible fishing and fisheries activities.

The Agreement is intended to deter the practice of re-flagging fishing vessels as a means of avoiding compliance with international conservation and

management measures, i.e. re-flagging fishing vessels to States that do not effectively control their vessels and/or that do not participate in or co-operate with regional fisheries management organizations (RFMOs). This practice is commonly associated with the problem of illegal, unreported and unregulated (IUU) fishing. The Agreement seeks to address this problem by strengthening the responsibilities of flag States over their vessels that fish on the high seas.

Specifically, it requires flag States to implement authorization and recording procedures for high-seas fishing vessels. It applies to all fishing vessels above 24m, unless otherwise specified, that are used or are intended for fishing in the high seas. The Agreement requires States to ensure that they can legally exert control over a vessel before authorizing it to fish on the high seas, States are prohibited from authorizing vessels with a history of fisheries-related non-compliance. The Agreement also sets out procedures for exchange of information on high-seas fishing vessels, and provides the basis for improved international co-operation with regard to IUU fishing.

1995 Code of Conduct for Responsible Fisheries

SHORT TITLE

Code of Conduct

ACRONYM

CCRF

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Voluntary Code

OBJECTIVES

- To establish principles, in accordance with the relevant rules of international law, for responsible fishing and fisheries activities, taking into account all their relevant biological, technological, economic, social, environmental and commercial aspects.
- To establish principles and criteria for the elaboration and implementation of national policies for responsible conservation of fisheries resources and fisheries management and development.
- To serve as an instrument of reference to help States to establish or to improve the legal and institutional framework required for the exercise of responsible fisheries and in the formulation and implementation of appropriate measures.
- To provide guidance which may be used where appropriate in the formulation and implementation of international agreements and other legal instruments, both binding and voluntary.
- To facilitate and promote technical, financial and other cooperation in conservation of fisheries resources and fisheries management and development.
- To promote the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities.
- To promote protection of living aquatic resources and their environments and coastal areas.
- To promote the trade of fish and fishery products in conformity with relevant international rules and avoid the use of measures that constitute hidden barriers to such trade.
- To promote research on fisheries as well as on associated ecosystems and relevant environmental factors.
- To provide standards of conduct for all persons involved in the fisheries sector.

CONTENTS

Preface, Introduction

Article 1: Nature and scope of the Code

Article 2: Objectives of the Code

Article 3: Relationship with other international instruments

Article 4: Implementation monitoring and updating

Article 5: Special requirements of developing countries

Article 6: General principles

Article 7: Fisheries management

Article 8: Fishing operations

Article 9: Aquaculture development

Article 10: Integration of fisheries into coastal area management

Article 11: Post-harvest practices and trade

Article 12: Fisheries research

DATE OF ADOPTION

31 October 1995

PLACE OF ADOPTION

Rome, Italy at the 28th session of the FAO Conference

INITIATING BODY

Food and Agriculture Organization of the United Nations

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Fisheries (COFI) of the Food and Agriculture Organization of the United Nations

Periodicity of meetings

The COFI meets once in two years.

Participation in meetings

COFI

Voting rights: Membership in Committee on Fisheries (COFI) is open to any FAO Member and non-Member eligible to be an observer of the Organization.

Observers: Representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, and international non-governmental organizations participate in the debate.

For International non-governmental organization: According to paragraph 3 of Rule XVII of the General Rules of the Organization,

“3. An observer of any international non-governmental organization having consultative status, accompanied by advisers and assistants, may attend the plenary meetings of the Conference and the meetings of any commission, of any

technical committee of a commission and of any technical committee established under Rule XV. Such observers may, without vote, speak before such commissions and committees, participate in the discussions therein upon the request of the Chairman and, with the consent of the General Committee, speak before plenary meetings of the Conference. They may circulate to the Conference, without abridgement, the views of the organizations which they represent.”

Secretariat

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GUIDELINES

There are nine technical guidelines for responsible fisheries under the Code:

No.1- Fishing operations

No.2- Precautionary approach to capture fisheries and species introductions

No.3- Integration of fisheries into coastal area management

No.4- Fisheries management

No.5- Aquaculture development

No.5, supp 1. Aquaculture development.

1. Good aquaculture feed manufacturing practices

No.6- Inland fisheries

No.7- Responsible fish utilization

No.8- Indicators for sustainable development of marine capture fisheries.

No.9- Implementation of the International Plan of Action to deter, prevent and eliminate, illegal, unreported and unregulated fishing.

SELECTED ARTICLES

Article 6: General principles

Article 6.1

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.

Article 6.2

Fisheries management should promote the maintenance of the quality, diversity and availability of fishery resources in sufficient quantities for present and future generations in the context of food security, poverty alleviation and sustainable development. Management measures should not only ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species.

Article 6.4

Conservation and management decisions for fisheries should be based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic and social factors. States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate.

Article 6.13

States should, to the extent permitted by national laws and regulations, ensure that decision making processes are transparent and achieve timely solutions

to urgent matters. States, in accordance with appropriate procedures, should facilitate consultation and the effective participation of industry, fishworkers, environmental and other interested organizations in decision making with respect to the development of laws and policies related to fisheries management, development, international lending and aid.

Article 6.16

States, recognising the paramount importance to fishers and fishfarmers of understanding the conservation and management of the fishery resources on which they depend, should promote awareness of responsible fisheries through education and training. They should ensure that fishers and fishfarmers are involved in the policy formulation and implementation process, also with a view to facilitating the implementation of the Code.

Article 6.18

Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

Article 6.19

States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.

Article 7: Fisheries management**Article 7.2.2**

Such measures should provide *inter alia* that: excess fishing capacity is avoided and exploitation of the stocks remains economically viable; the economic conditions under which fishing industries operate promote responsible fisheries; the interests of fishers, including those engaged in subsistence, small-scale and artisanal fisheries, are taken into account; biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected; depleted stocks are allowed to recover or, where appropriate, are actively restored; adverse environmental impacts on the resources from human activities are assessed and, where appropriate, corrected; and pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species are minimized, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

Article 7.6.4

The performance of all existing fishing gear, methods and practices should be examined and measures taken to ensure that fishing gear, methods and practices which are not consistent with responsible fishing are phased out and replaced with more acceptable alternatives. In this process, particular attention should be given to the impact of such measures on fishing communities, including their ability to exploit the resource.

Article 7.6.6

When deciding on the use, conservation and management of fisheries resources, due recognition should be given, as appropriate, in accordance with national

laws and regulations, to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resources for their livelihood.

Article 7.6.9

States should take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and negative impacts on associated or dependent species, in particular endangered species. Where appropriate, such measures may include technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries. Such measures should be applied, where appropriate, to protect juveniles and spawners. States and subregional or regional fisheries management organizations and arrangements should promote, to the extent practicable, the development and use of selective, environmentally safe and cost effective gear and techniques.

Article 8: Fishing operations**Article 8.1.5**

States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

Article 8.2.5

Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such

Oceans and Fisheries Management

international conventions, codes of practice or voluntary guidelines.

Article 8.3.2

Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.

Article 8.4.8

Research on the environmental and social impacts of fishing gear and, in particular, on the impact of such gear on biodiversity and coastal fishing communities should be promoted.

Article 8.5.1

States should require that fishing gear, methods and practices, to the extent practicable, are sufficiently selective so as to minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species and that the intent of related regulations is not circumvented by technical devices. In this regard, fishers should cooperate in the development of selective fishing gear and methods. States should ensure that information on new developments and requirements is made available to all fishers.

Article 8.11.3

States should, within the framework of coastal area management plans, establish management systems for

artificial reefs and fish aggregation devices. Such management systems should require approval for the construction and deployment of such reefs and devices and should take into account the interests of fishers, including artisanal and subsistence fishers.

Article 9: Aquaculture development

Article 9.1.4

States should ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments.

Article 9.4.1

States should promote responsible aquaculture practices in support of rural communities, producer organizations and fish farmers.

Article 10: Integration of fisheries into coastal area management

Article 10.1.2

In view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes and involved in other activities related to coastal area management planning and development.

Article 10.1.4

States should facilitate the adoption of fisheries practices that avoid conflict among fisheries resources users and between them and other users of the coastal area.

Article 11: Post-harvest practices and trade

Article 11.2.7

States should not condition access to markets to access to resources. This principle does not preclude the possibility of fishing agreements between States which include provisions referring to access to resources, trade and access to

markets, transfer of technology, scientific research, training and other relevant elements.

Article 11.2.15

States, aid agencies, multilateral development banks and other relevant international organizations should ensure that their policies and practices related to the promotion of international fish trade and export production do not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish is critical to their health and well being and for whom other comparable sources of food are not readily available or affordable.

Article 12: Fisheries research

Article 12.12

States should investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development.

KEYWORDS

UNCLOS, conservation, fisheries management, fisheries resources, capture fisheries, fish processing, trade, aquaculture, responsible fisheries, cooperation, food security, local communities, COFI, developing countries, overfishing, habitat, transboundary, biodiversity, fishing gear, dispute resolution, Post harvest fisheries, straddling stocks, highly migratory stocks, traditional fishing, RFMO, artificial reefs, Fish Aggregating Devices, small-scale fisheries, artisanal fisheries, harbours, Flag State, Port State, IMO, MARPOL, ICAM, WTO, research

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Code is a voluntary instrument and is the first international instrument of its type to have been concluded for the fisheries sector.

The rationale underlying the Code is that effective fisheries management is essential if long-term goals of sustainability are to be achieved, in view of the large proportion of fisheries that are not effectively managed. The Code takes a holistic view of fisheries, and prescribes principles and standards for the conservation and management of all fisheries. It addresses the capture, processing and trade in fish and fishery products, fishing operations, aquaculture, fisheries research, and the integration of fisheries into coastal area management. It demonstrates the interdependencies in the fisheries sector, and the need to address all areas if consistent, sustained and sector-wide improvements are to be achieved.

The Code is global in scope and is directed towards all States and fishing entities, subregional, regional and international, whether governmental or non-governmental, and all persons concerned with the conservation, management and development of fisheries resources. The Code recognizes the nutritional, economic, social, environmental and cultural importance of fisheries and the interests of all those concerned with the fishery sector.

Articles 1 to 6 describe the nature and scope of the Code, its objectives and relationship with other international instruments, directions for its implementation, monitoring and

Oceans and Fisheries Management

updating, the special requirements of developing countries, and general principles. Articles 7 to 12 deal with substantive technical aspects related to fisheries management, fisheries operations, aquaculture development, fisheries and coastal area management, post-harvest practices and trade, and fisheries research.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

There are several specific references in the Code of the need to take into account the interests of small-scale fishworkers and fishing communities. Article 6.18 stresses the need to protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

Article 6.4 stresses the need to take conservation and management decisions for fisheries, based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic and social factors.

Article 7.6.6 highlights the need to recognize the traditional practices, needs and interests of indigenous people and local fishing communities highly

dependent on fishery resources for their livelihood. In Article 8.2.5, States are called upon to adopt appropriate safety requirements for all small vessels not covered by international conventions, codes of practice or voluntary guidelines.

Article 9.1.4 calls on States to ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments.

Article 10.1.2 stresses that, in view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes, and are involved in other activities related to coastal area management planning and development.

Article 11.2.15 stresses the need to ensure that policies and practices related to the promotion of international fish trade and export production do not result in environmental degradation, or adversely impact the nutritional rights and needs of people dependent on fish for their health and well-being.

The need to investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development, is highlighted in Article 12.12.

International Plan of Action for the Management of Fishing Capacity

SHORT TITLE

IPOA – Fishing Capacity

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To achieve worldwide, preferably by 2003 but not later than 2005, an efficient, equitable and transparent management of fishing capacity

CONTENTS

Introduction

PART I Nature and Scope of the International Plan of Action

PART II Objective and Principles

PART III Urgent Actions

PART IV Mechanisms to promote implementation

DATE OF ADOPTION

February 1999

PLACE OF ADOPTION

Rome, Italy at the 23 rd session of the Committee on Fisheries (COFI) meeting of the FAO

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of the FAO

Monitoring and implementation

FAO through the COFI (Committee on Fisheries)

Periodicity of meetings

FAO conference and COFI meet once in two years.

Participation in meetings

Decision-making body: FAO conference

Voting rights: Members and associate Members of the Organization (FAO)

Observers: Non-Member Nations, intergovernmental organizations and non-governmental organizations.

According to paragraph 3 of Rule XVII of the General Rules of the Organization, "3. An observer of any international non-governmental organization having consultative status, accompanied by advisers and assistants, may attend the plenary meetings of the Conference and the meetings of any commission, of any technical committee of a commission and of any technical committee established under Rule XV. Such observers may, without vote, speak before such commissions and committees, participate in the discussions therein upon the request of the Chairman and, with the consent of the General Committee, speak before plenary meetings of the Conference. They may circulate to the Conference, without abridgement, the views of the organizations which they represent."

Monitoring and implementation:

Committee on Fisheries (COFI)

Voting rights: FAO Members

Observers: Non-member of FAO, and representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, international and international non-governmental organizations

Oceans and Fisheries Management

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SELECTED PARAGRAPHS

8. The above objective may be achieved through a series of actions related to four major strategies:

- i. the conduct of national, regional and global assessments of capacity and improvement of the capability for monitoring fishing capacity;
- ii. the preparation and implementation of national plans to effectively manage fishing capacity and of immediate actions for coastal fisheries requiring urgent measures;
- iii. the strengthening of regional fisheries organizations and related mechanisms for improved management of fishing capacity at regional and global levels;
- iv. immediate actions for major transboundary, straddling, highly migratory and high seas fisheries requiring urgent measures.

These strategies may be implemented through complementary mechanisms to promote implementation of this international Plan of Action: awareness building and education, technical co-operation at the international level, and co-ordination.

9. The management of fishing capacity should be based on the Code of Conduct for Responsible Fisheries and take into consideration the following major principles and approaches:

- i. Participation: The International Plan of Action should be implemented by States either directly, in co-operation with other States, or through FAO in co-operation with other appropriate intergovernmental organizations, including regional fisheries organizations. States and regional fisheries organizations, as appropriate, are encouraged to give effect to it and to inform FAO of actions taken to implement it. FAO will regularly provide information about its implementation.
- ii. Phased implementation: The management of fishing capacity on the basis of national and regional plans should be achieved through the following three phases: assessment and diagnosis (preliminary analysis to be completed by the end of 2000), adoption of management measures (preliminary steps to be adopted by the end of 2002) and periodic adjustment of such assessment and diagnosed measures, as appropriate. States and regional fisheries organizations should complete these steps and progressively implement by 2005 the complementary measures specified in the International Plan of Action.
- iii. Holistic approach: The management of fishing capacity should consider all factors affecting capacity in both national and international waters;
- iv. Conservation: The management of fishing capacity should be designed to achieve the conservation and sustainable use of fish stocks and the protection of the marine environment consistent with the precautionary approach, the need to minimize by-catch,

waste and discard and ensure selective and environmentally safe fishing practices, the protection of biodiversity in the marine environment, and the protection of habitat, in particular habitats of special concern.

- v. Priority: Priority should be given to managing the fishing capacity in those fisheries in which there already unequivocally exists overfishing;
 - vi. New technologies: The management of fishing capacity should be designed so that it takes into account the incorporation of environmentally sound and evolving technology in all areas of capture fisheries.
 - vii. Mobility: The management of fishing capacity should encourage efficient use of fishing capacity and discourage mobility when it negatively affects sustainability and take due account of socio-economic performances in other fisheries;
 - viii. Transparency: The International Plan of Action should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct.
22. States should give due consideration, in the development of national plans, to socio-economic requirements, including the consideration of alternative sources of employment and livelihood to fishing communities which must bear the burden of reductions in fishing capacity.

KEYWORDS

Code of Conduct, compliance agreement, conservation, fish stocks, fishery resources, fishing capacity, fishing vessels, habitat, high seas, incentives, management, marine biodiversity, overfishing, RFMO, straddling stocks, subsidies, sustainable fishing, IPOA

RELEVANCE TO FISHERIES/ FISHWORKERS

There is greater recognition today of the problem of overcapacity in fisheries, and the need to reduce capacity to achieve sustainable and responsible fisheries. The IPOA-Fishing Capacity thus calls for States to implement an effective management plan for fishing capacity by 2003, and no later than 2005. This IPOA recognizes excessive fishing capacity as a problem that contributes substantially to overfishing, the degradation of marine fisheries resources, decline of food production potential, and significant economic waste.

It recommends national, regional and global assessments of capacity, and improved monitoring of fishing capacity; national plans to effectively manage fishing capacity, and immediate actions for coastal fisheries requiring urgent measures; strengthening of regional fisheries organizations and related mechanisms for improved management of fishing capacity at regional and global levels; and immediate actions for major transboundary, straddling, highly migratory and high-seas fisheries requiring urgent measures.

It asks States to assess the impact of all factors, including subsidies, that contribute directly or indirectly to overcapacity, and to progressively reduce and eliminate these factors.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The IPOA (para 22) stresses the need for States, while developing national plans to reduce overcapacity, to give due consideration to socioeconomic requirements, including the consideration of alternative sources of employment and livelihood to fishing communities that must bear the burden of reductions in fishing capacity.

International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries

SHORT TITLE

IPOA - Seabirds

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To reduce the incidental catch of seabirds in longline fisheries where this occurs.

CONTENTS

Introduction

Origin

Nature and Scope

Objective

Implementation

Role of FAO

DATE OF ADOPTION

February 1999

PLACE OF ADOPTION

Rome, Italy at the 23rd session of the Committee on Fisheries (COFI) meeting

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

FAO Conference

Monitoring and implementation

Committee on Fisheries (COFI)

Periodicity of meetings

The FAO conference meets once in two years.

Participation in meetings

Decision-making body: FAO Conference

Voting rights: Members and associate Members of the Organization (FAO)

Observers: Non-Member Nations, intergovernmental organizations and non-governmental organizations.

Monitoring and implementation:

Committee on Fisheries (COFI)

Voting rights: FAO Members

Observers: Non-member Nations of FAO, and representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, intergovernmental organizations and non-governmental organizations.

Paragraph 3 of Rule XVII of the General Rules of the Organization is relevant for International non-governmental organizations. (see page 28)

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ADDITIONAL INFORMATION

Technical note on developing a National Plan of Action for reducing the incidental catch of seabirds in longline fisheries (NPOA-Seabirds).

Technical note on some optional technical and operational measures for reducing the incidental catch of seabirds in longline fisheries.

SELECTED PARAGRAPHS

9. The IPOA-SEABIRDS applies to States in the waters of which longline fisheries are being conducted by their own or foreign vessels and to States that conduct longline fisheries on the high seas and in the exclusive economic zones (EEZ) of other States.
12. States with longline fisheries should conduct an assessment of these fisheries to determine if a problem exists with respect to incidental catch of seabirds. If a problem exists, States should adopt a National Plan of Action for reducing the incidental catch of seabirds in longline fisheries (NPOA-SEABIRDS). (See below the “Technical note on developing a National Plan of Action for reducing the incidental catch of seabirds in longline fisheries”.) When developing the NPOA-SEABIRDS experience acquired in regional management organizations should be taken into account as appropriate. FAO should provide a list of experts and a mechanism of technical assistance to countries for use in connection with development of NPOA-SEABIRDS.
17. States should start the implementation of the NPOA-SEABIRDS no later than the COFI Session in 2001.
18. In implementing their NPOA-SEABIRDS States should regularly, at least every four years, assess their implementation for the purpose of identifying cost-effective strategies for increasing the effectiveness of the NPOA-SEABIRDS.

KEYWORDS

IPOA, FAO, seabirds, longline fisheries, COFI, NPOA-Seabirds, education, reduction, incidental catch

RELEVANCE TO FISHERIES/ FISHWORKERS

This IPOA, a voluntary instrument, was developed out of the growing concern over the incidental catch of seabirds in various commercial longline fisheries in the world, and its potential negative impacts on seabird populations. The references to fisheries includes fisheries for tuna, swordfish and billfish in some particular parts of oceans: Patagonian toothfish in the Southern Ocean, and halibut, black cod, Pacific cod, Greenland halibut, cod, haddock, tusk and ling in the northern oceans (Pacific and Atlantic). The species of seabirds most frequently taken are albatrosses and petrels in the Southern Ocean, northern fulmars in the North Atlantic, and albatrosses, gulls and fulmars in the North Pacific fisheries.

International Plan of Action for the Conservation and Management of Sharks

SHORT TITLE

IPOA-Sharks

Periodicity of meetings

The FAO conference meets once in two years.

LEGAL STATUS

Non-binding

Participation in meetings

Decision-making body: FAO Conference

Voting rights: Members and associate Members of the Organization (FAO)

Observers: Non-Member Nations, intergovernmental organizations and non-governmental organizations.

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To ensure the conservation and management of sharks and their long-term sustainable use

Monitoring and implementation:

Committee on Fisheries (COFI)

Voting rights: FAO Members

Observers: Non-member of FAO, and representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, intergovernmental organizations and non-governmental organizations.

CONTENT

Introduction

Nature and Scope

Guiding Principles

Objective

Implementation

Role of FAO

and two Appendices

Paragraph 3 of Rule XVII of the General Rules of the Organization is relevant for International non-governmental organizations. (see page 31)

DATE OF ADOPTION

February 1999

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PLACE OF ADOPTION

Rome, Italy at the 23 rd session of the Committee on Fisheries (COFI)

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

FAO Conference

GUIDELINES

Suggested contents of a Shark-plan

Suggested contents of a shark assessment report

Monitoring and implementation

Committee on Fisheries

SELECTED PARAGRAPHS

Guiding principles

13. Participation. States that contribute to fishing mortality on a species or stock should participate in its management.
14. Sustaining stocks. Management and conservation strategies should aim to keep total fishing mortality for each stock within sustainable levels by applying the precautionary approach.
15. Nutritional and socioeconomic considerations. Management and conservation objectives and strategies should recognize that in some low-income food-deficit regions and/or countries, shark catches are a traditional and important source of food, employment and/or income. Such catches should be managed on a sustainable basis to provide a continued source of food, employment and income to local communities.
17. The IPOA-Sharks applies to States in the waters of which sharks are caught by their own or foreign vessels and to States the vessels of which catch sharks on the high seas.
18. States should adopt a national plan of action for conservation and management of shark stocks (Shark-plan) if their vessels conduct directed fisheries for sharks or if their vessels regularly catch sharks in non-directed fisheries. Suggested contents of the Shark-plan are found in Appendix A. When developing a Shark-plan, experience of subregional and regional fisheries management organizations should be taken into account, as appropriate.
20. States should strive to have a Shark-plan by the COFI Session in 2001.
21. States should carry out a regular assessment of the status of shark stocks subject to fishing so as to determine if there is a need for development of a shark plan. This assessment should be guided by article 6.13 of the Code of Conduct for Responsible Fisheries. The assessment should be reported as a part of each relevant State's Shark-plan. Suggested contents of a shark assessment report are found in Appendix B. The assessment would necessitate consistent collection of data, including *inter alia* commercial data and data leading to improved species identification and, ultimately, the establishment of abundance indices. Data collected by States should, where appropriate, be made available to, and discussed within the framework of, relevant subregional and regional fisheries organizations and FAO. International collaboration on data collection and data sharing systems for stock assessments is particularly important in relation to transboundary, straddling, highly migratory and high seas shark stocks.
22. The Shark-plan should aim to:
 - Ensure that shark catches from directed and non-directed fisheries are sustainable;
 - Assess threats to shark populations, determine and protect critical habitats and implement harvesting strategies consistent with the principles of biological sustainability and rational long-term economic use;
 - Identify and provide special attention, in particular to vulnerable or threatened shark stocks;
 - Improve and develop frameworks for establishing and co-ordinating effective

Oceans and Fisheries Management

consultation involving all stakeholders in research, management and educational initiatives within and between States;

- Minimize unutilized incidental catches of sharks;
- Contribute to the protection of biodiversity and ecosystem structure and function;
- Minimize waste and discards from shark catches in accordance with article 7.2.2.(g) of the Code of Conduct for Responsible Fisheries (for example, requiring the retention of sharks from which fins are removed);
- Encourage full use of dead sharks;
- Facilitate improved species-specific catch and landings data and monitoring of shark catches;
- Facilitate the identification and reporting of species-specific biological and trade data.

KEYWORDS

Sharks, multispecies fisheries, bycatch, shark-plan, taxonomy, IPOA-sharks, FAO, fisheries management, trade, artisanal fisheries, Code of Conduct, habitat

RELEVANCE TO FISHERIES/ FISHWORKERS

As shark catches have grown, so have concerns about the consequences for populations of some shark species. This is particularly important as biological productivity of sharks is low, and shark populations are known to have a long recovery time. The IPOA-Sharks, a voluntary instrument, aims to better manage directed shark catches and certain multispecies fisheries in which sharks constitute a significant bycatch.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The IPOA-Sharks specifically calls for management and conservation objectives and strategies to recognize that in some low-income food-deficit regions and/or countries, shark catches are a traditional and important source of food, employment and/or income. In several countries, there are now efforts to impose bans on the capture of sharks. Para 15 can be used by traditional fishworkers to highlight the need for conservation and management initiatives that take into account their livelihood interests, keeping in mind the status of the shark stocks targeted by them.

International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

SHORT TITLE

IPOA – IUU

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations established in accordance with international law

CONTENTS

Introduction; Nature and Scope of IUU fishing and the International Plan of Action

Objectives and Principles; Implementation of Measures to Prevent, Deter and Eliminate IUU Fishing; Special Requirements of Developing Countries; Reporting and Role of FAO

DATE OF ADOPTION

2 March 2001

PLACE OF ADOPTION

Rome, Italy at the 24th session of the Committee on Fisheries (COFI)

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

FAO Conference

Monitoring and implementation

Committee on Fisheries (COFI)

Periodicity of meetings

The FAO conference meets once in two years.

Participation in meetings

Decision-making body: FAO Conference

Voting rights: Members and associate Members of the Organization (FAO)

Observers: Non-Member Nations, intergovernmental organizations and non-governmental organizations.

Monitoring and implementation:

Voting rights: FAO Members

Observers: Non-member Nations of FAO, and representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, intergovernmental organizations and non-governmental organizations.

Paragraph 3 of Rule XVII of the General Rules of the Organization is relevant for International non-governmental organizations. (see page 31)

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SELECTED PARAGRAPHS

9. The IPOA to prevent, deter and eliminate IUU fishing incorporates the following principles and strategies. Due consideration should be given to the special requirements of developing countries in accordance with Article 5 of the Code of Conduct.

9.1 Participation and coordination: To be fully effective, the IPOA should be implemented by all States either directly, in cooperation with other States, or indirectly through relevant regional fisheries management organizations or through FAO and other appropriate international organizations. An important element in successful implementation will be close and effective coordination and consultation, and the sharing of information to reduce the incidence of IUU fishing, among States and relevant regional and global organizations. The full participation of stakeholders in combating IUU fishing, including industry, fishing communities, and non-governmental organizations, should be encouraged.

9.2 Phased implementation: Measures to prevent, deter and eliminate IUU fishing should be based on the earliest possible phased implementation of national plans of action, and regional and global action in accordance with the IPOA.

9.3 Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the

flag State and using all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where appropriate, and to cooperate in order to ensure that measures are applied in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing.

9.4 Conservation: Measures to prevent, deter and eliminate IUU fishing should be consistent with the conservation and long-term sustainable use of fish stocks and the protection of the environment.

9.5 Transparency: The IPOA should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct.

9.6 Non-discrimination: The IPOA should be developed and applied without discrimination in form or in fact against any State or its fishing vessels.

23. States should, to the extent possible in their national law, avoid conferring economic support, including subsidies, to companies, vessels or persons that are involved in IUU fishing.

25. States should develop and implement, as soon as possible but not later than three years after the adoption of the IPOA, national plans of action to further achieve the objectives of the IPOA and give full effect to its provisions as an integral

part of their fisheries management programmes and budgets. These plans should also include, as appropriate, actions to implement initiatives adopted by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing. In doing so, States should encourage the full participation and engagement of all interested stakeholders, including industry, fishing communities and non-governmental organizations.

66. States should take all steps necessary, consistent with international law, to prevent fish caught by vessels identified by the relevant regional fisheries management organization to have been engaged in IUU fishing being traded or imported into their territories. The identification of the vessels by the regional fisheries management organization should be made through agreed procedures in a fair, transparent and non-discriminatory manner. Trade-related measures should be adopted and implemented in accordance with international law, including principles, rights and obligations established in WTO Agreements, and implemented in a fair, transparent and non-discriminatory manner. Trade-related measures should only be used in exceptional circumstances, where other measures have proven unsuccessful to prevent, deter and eliminate IUU fishing, and only after prior consultation with interested States. Unilateral trade-related measures should be avoided.

KEYWORDS

Coastal State, compliance, conservation, control, developing countries, fish stocks, fishing vessels, flag States, high seas, IUU, management, MCS, port State, RFMO, sanctions, surveillance, trade, permit, FOC

RELEVANCE TO FISHERIES/ FISHWORKERS

The issue of illegal, unreported and unregulated (IUU) fishing is of serious and increasing concern, as it undermines efforts to conserve and manage fish stocks in all capture fisheries. The IPOA-IUU—a non-binding instrument—is a comprehensive document, designed to be a toolbox of measures to prevent IUU fishing activities, including fishing by vessels flying “flags of convenience” (FOC). The IPOA highlights four main areas of action: flag State responsibilities; coastal State measures; port State measures; and internationally agreed market-related measures. In addition, there are sections dealing with, *inter alia*, general obligations on all States, the role of regional fisheries organizations, the position of developing States, research, and the role of FAO.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The IPOA-IUU encourages the full participation of stakeholders, including industry, fishing communities and NGOs in combating IUU fishing. IUU fishing, within and outside the EEZ, is known to have negative social and economic consequences for small-scale fishworkers, particularly in developing countries. Apart from the reduction in catches of the artisanal fleet as a result of activities of IUU fishing vessels, there are safety implications for the artisanal fleet as well. Any efforts to control IUU fishing can only have positive outcomes for the artisanal and small-scale sector. At the same time, it needs to be kept in mind that certain activities of the artisanal fleet may also fall within what is defined as IUU fishing. These activities could include, for example, the use of dynamite and poison, and the use of other destructive fishing gear and practices.

International Conference on Responsible Fishing

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To promote responsible fishing by asking States to adopt effective fisheries planning and management standards in various areas for the conservation and sustainable utilization of fisheries resources.

NAME OF DECLARATION

Cancun Declaration on Responsible Fishing

PLACE OF DECLARATION

Cancun, Mexico

DATE OF DECLARATION

6-8 May 1992

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

SELECTED PARAGRAPHS

1. States, with a view to ensuring supply of fish products to feed present and future populations, should adopt effective fisheries planning and management standards which, within the context of sustainable development, will promote the maintenance of the quantity, quality, diversity and economic availability of fisheries resources;
2. States should take steps to improve management systems as part of the practice of responsible fishing. They

recognize the principle of sustainable utilization of marine living resources as the basis for sound fisheries management policies. In this regard, they consider as one of the most important objectives the application of policies and measures which result in a level of fishing effort commensurate with the sustainable utilization of fisheries resources, taking into account the specific characteristics of particular fisheries;

7. States should systematically assess the impacts of fishing, aquaculture and other activities affecting the marine environment, particularly in coastal areas;
8. States should take necessary measures to protect coastal wetlands and other areas of critical fisheries habitat from all kinds of degradation;
9. States should take measures to ensure respect for the interests of small-scale artisanal and indigenous fishers;

KEYWORDS

Fisheries management, small scale fisheries, artisanal fisheries, fisheries development, responsible fisheries, sustainable utilization, marine resources, policy, aquaculture, fishers, trade, trade barriers, UNCLOS, illegal fishing, IUU

RELEVANCE TO FISHERIES/ FISHWORKERS

The Cancun Declaration highlights the concept of responsible fisheries management to avoid overexploitation of resources and loss of biodiversity, and to

ensure supply of fish products to feed present and future populations. The Cancun Conference provided input to the 1992 United Nations Conference on Environment and Development (UNCED), and the importance of responsible fisheries is emphasized in Agenda 21. The Declaration also initiated the process that culminated in the

adoption of the Code of Conduct for Responsible Fisheries in 1995.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Declaration specifically calls on States to take measures to ensure respect for the interests of small-scale artisanal and indigenous fishers.

FAO Ministerial Conference on Fisheries

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To review the state of world fisheries and the FAO follow-up to the United Nations Conference on Environment and Development

NAME OF DECLARATION

The Rome Consensus on World Fisheries

PLACE OF DECLARATION

Rome, Italy

DATE OF DECLARATION

14-15 March 1995

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

GUIDELINES

FAO Code of Conduct for Responsible Fisheries

SELECTED PARAGRAPHS

10. To respond effectively to the current fisheries situation and the difficulties that can be foreseen in satisfying growing demand for fish and in conserving aquatic ecosystems, the Rome Ministerial Meeting urged that governments and international organizations take prompt action to:

- reduce fishing to sustainable levels in areas and on stocks currently heavily exploited or overfished;

- adopt policies, apply measures, and develop techniques to reduce by-catches, fish discards and post-harvest losses;
- review the capacity of fishing fleets in relation to sustainable yields of fishery resources and where necessary reduce these fleets;
- strengthen and support regional, sub-regional, and national fisheries organizations and arrangements for implementing conservation and management measures;
- keep under review the effectiveness of conservation and management measures for ensuring the long-term sustainability of fisheries and aquatic ecosystems;
- continue and, when possible, increase technical, financial, and other assistance to developing countries, in particular to least developed countries, to support their efforts in fisheries conservation and management, and in aquaculture development;
- encourage States to further develop ecologically sound aquaculture as an important contributor to overall food security;
- strengthen fisheries research and increase cooperation among research institutions;
- increase consultation on fisheries with the private sector and non-governmental organizations;

- effectively implement the relevant rules of international law on fisheries and related matters which are reflected in the provisions of the UN Convention on the Law of the Sea;
- bring to a successful conclusion the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks;
- complete the International Code of Conduct for Responsible Fisheries with a view to submitting the final text to the October 1995 FAO Conference; and
- consider ratifying the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

KEYWORDS

Overfishing, fish stocks, fisheries practices, aquaculture, habitats, management, fishery organizations,

sustainable practices, conservation, straddling stocks, UNCLOS, discards, bycatch, food security

RELEVANCE TO FISHERIES/ FISHWORKERS

The Ministerial meeting reviewed the state of world fisheries and the FAO follow-up to the United Nations Conference on Environment and Development (UNCED). The Rome Consensus on World Fisheries, adopted by the Meeting, recognized the socioeconomic, environmental and nutritional importance of fisheries, and called upon States to eliminate overfishing, minimize wasteful fisheries practices, reduce fishing capacity, and undertake effective conservation and management measures. It also called upon the FAO to complete the International Code of Conduct for Responsible Fisheries. The Ministerial Meeting reaffirmed the role of the FAO in fisheries, as the leading specialized agency within the UN system, with a broad and extensive range of fisheries expertise.

1999 FAO Ministerial Meeting on Fisheries

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To reaffirm the commitment of States towards implementation of the FAO Code of Conduct for Responsible Fisheries and towards taking appropriate action to achieve sustainable management of fishery resources.

NAME OF DECLARATION

The Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries

PLACE OF DECLARATION

Rome, Italy

DATE OF DECLARATION

10-11 March 1999

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

SELECTED PARAGRAPHS

We, the Ministers and Ministers' representatives meeting in Rome on 10 and 11 March 1999, declare that, without prejudice to the rights and obligations of States under international law:

- c) Accord highest priority to achieving sustainability of both capture fisheries and aquaculture within the

framework of the ecosystem approach, bearing in mind the special circumstances and needs of developing countries, in particular the small island developing States;

- d) Will collaborate with other States and relevant intergovernmental and non-governmental organizations and financial institutions to promote the effective implementation of the Code of Conduct for Responsible Fisheries;
- e) Encourage FAO to develop further technical guidelines on various aspects of the Code of Conduct in order to support its national implementation;
- k) Will address aspects of trade and environment related to fisheries and aquaculture within the framework of the Code of Conduct for Responsible Fisheries;
- l) Call upon all users of fisheries resources to apply the Code of Conduct for Responsible Fisheries;

KEYWORDS

Code of conduct, FAO, ecosystem approach, fisheries, aquaculture, trade, environment, fisheries resources, fisheries management, guidelines

RELEVANCE TO FISHERIES/ FISHWORKERS

The Ministerial meeting reaffirmed the role of FAO as the most appropriate forum for addressing vital global fisheries issues. It further reaffirmed the commitment of States towards implementation of the Code of Conduct for Responsible

Fisheries and the various International Plans of Action, and towards taking necessary action, as appropriate, to achieve sustainable management of fisheries resources. The Meeting stressed the need for collaborative action to meet the challenges facing global fisheries. The Meeting further recognized the special needs and requirements of

developing countries, particularly small island developing States.

The Meeting emphasized the need for sustainable fisheries, both capture and culture, in conformity with the ecosystem approach. It also stressed the need to address trade- and environment-related issues, within the framework of the Code.

Reykjavik Conference on Responsible Fisheries in the Marine Ecosystem

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To include ecosystem considerations in fisheries management

NAME OF DECLARATION

Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem

PLACE OF DECLARATION

Reykjavik, Iceland

DATE OF DECLARATION

1-4 October 2001

INITIATING BODY

Food and Agriculture Organization of the United Nations, Government of Iceland and Government of Norway

GUIDELINES

FAO Technical Guidelines for Responsible Fisheries, No. 4 Suppl 2. Fisheries Management - 2. The Ecosystem Approach to Fisheries 2003

SUBSEQUENT MEETINGS

Expert Consultation on Ecosystem-based Fisheries Management, Reykjavik, Iceland, 16 - 19 September 2002

SELECTED PARAGRAPHS

Recognizing that sustainable fisheries management incorporating ecosystem considerations entails taking into account

the impacts of fisheries on the marine ecosystem and the impacts of the marine ecosystem on fisheries,

Confirming that the objective of including ecosystem considerations in fisheries management is to contribute to long-term food security and to human development and to assure the effective conservation and sustainable use of the ecosystem and its resources,

Aware that the sustainable use of living marine resources contributes substantially to human food security, as well as dietary variety, provides for the livelihood of millions of people and is a central pillar of many national economies, especially low-income food-deficit countries and small island developing States,

Emphasizing that the scientific basis for including ecosystem considerations in fisheries management needs further development and that there is incomplete scientific knowledge about the structure, functioning, components and properties of the ecosystem as well as about the ecological impact of fishing,

Recognizing that certain non-fishery activities have an impact on the marine ecosystem and have consequences for management. These include land-based and sea-based activities which affect habitat, water quality, fisheries productivity, and food quality and safety,

Declare that, in an effort to reinforce responsible and sustainable fisheries in the marine ecosystem, we will individually and collectively work on

incorporating ecosystem considerations into that management to that aim.

Towards this end, we further declare:

2. There is a clear need to introduce immediately effective management plans with incentives that encourage responsible fisheries and sustainable use of marine ecosystems, including mechanisms for reducing excessive fishing efforts to sustainable levels.
4. Prevention of adverse effects of non-fisheries activities on the marine ecosystems and fisheries requires action by relevant authorities and other stakeholders.
6. The interaction between aquaculture development in the marine environment and capture fisheries should be monitored through relevant institutional and regulatory arrangements.
7. Our determination to strengthen international cooperation with the aim of supporting developing countries in incorporating ecosystem considerations into fisheries management, in particular in building their expertise through education and training for collecting and processing the biological, oceanographic, ecological and fisheries data needed for designing, implementing and upgrading management strategies.
8. We resolve to improve the enabling environment by encouraging technology transfer contributing to sustainable management where appropriate, introducing sound regulatory frameworks, examining and where necessary removing trade distortions, and promoting transparency.

KEYWORDS

Code of conduct, fisheries management, conservation, ecosystem approach, aquaculture, capture fisheries, habitat, bycatch, EAF, ecosystem-based management

RELEVANCE TO FISHERIES/ FISHWORKERS

The Reykjavik Declaration lays out the contours for future co-operation in the area of sustainable fisheries. It clarifies the nature and objective of ecosystem-based fisheries management, recognizing that it entails taking into account the impacts of the marine ecosystem on fisheries as well as the impacts of fisheries on the marine ecosystem. It recognizes the importance of sustainable fisheries, and commits States to working in collaboration to incorporate ecosystem considerations into fisheries management, with the aim of reinforcing responsible and sustainable fisheries in the marine ecosystem. It also enumerates a number of concrete areas of action to attain its objectives, including support for developing countries in building sustainable fisheries management, and the development of FAO technical guidelines to facilitate the incorporation of ecosystem considerations into fisheries management.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Incorporating ecosystem considerations into fisheries management, and taking due note of the impacts of marine ecosystems on fisheries and the impact of fisheries on marine ecosystems, could be of great benefit to the small-scale sector. It could, for example, draw attention to the need to control large-scale fishing operations that employ non-

Oceans and Fisheries Management

selective fishing gear and methods like bottom trawling, to minimize the cascade effect on fish stocks and on the livelihoods of small-scale fishing communities. Moreover, given that the fisheries sector, especially the small-scale subsector, is at the receiving end of land-based and sea-based sources of habitat degradation, and pollution, an ecosystem-based fisheries management

approach can broaden the scope of fisheries management, especially in many developing countries, to effectively address these forms of degradation. The adoption of an ecosystem approach could also help valorize and build upon the ecosystem principles inherent in the traditional ecological knowledge systems of artisanal and small-scale fishing communities around the world.

Strategy for Improving Information on Status and Trends of Capture Fisheries

SHORT TITLE

Strategy-STF

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Voluntary guidelines

OBJECTIVES

To provide a framework, strategy and plan for the improvement of knowledge and understanding of fishery status and trends as a basis for fisheries policy-making and management for the conservation and sustainable use of fishery resources within ecosystems.

CONTENTS

6 Parts

Part 1: Introduction

Part 2: Nature and Scope

Part 3: Objective

Part 4: Guiding Principles

Part 5: Required Actions

Part 6: Promotion and Implementation Mechanisms

DATE OF ADOPTION

28 February 2003

PLACE OF ADOPTION

Rome, Italy at the 25th session of the Committee on Fisheries (COFI)

INITIATING BODY

Food and Agriculture Organization of the United Nations

WORKING OF THE INSTRUMENT

Monitoring and implementation:
Committee on Fisheries (COFI)

The fisheries department of the FAO through COFI will biennially report on the progress of implementation.

States: The Strategy calls upon States to report on a biennial basis, the status of their implementation.

According to Para 47,

“47. States should evaluate the actions they need to take to improve information on the status and trends of fisheries, address these requirements on a priority basis, and report on the improvements they make, as part of their biennial report to FAO on the Code of Conduct.”

Regional Fisheries Management Organizations (RFMOs)

It asks RFMOs to participate in the implementation of this Strategy by providing support to their members, participating in global programmes and decisions on the development and adoption of standards and guidelines for information on the status and trends of fisheries, and becoming a partner in FIGIS.

Non-governmental Organizations

Para 53 states that

“Non-governmental organizations (national, regional and international) concerned with fisheries, fisherfolk and the aquatic environment and related research, should encourage implementation of the Strategy through appropriate support, information, development of methods and capacity building, and participation.”

Periodicity of meetings

COFI meets once in two years.

Oceans and Fisheries Management

Participation in meetings

Monitoring and implementation: Committee on Fisheries (COFI)

Voting rights: FAO Members

Observers: Non-member Nations of FAO, and representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, intergovernmental organizations and non-governmental organizations.

Paragraph 3 of Rule XVII of the General Rules of the Organization is relevant for International non-governmental organizations. (see page 31)

Secretariat

Chief, International Instruments and Liaison Service (FIPL) and Secretary of COFI, FAO

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SELECTED PARAGRAPHS

Need for capacity building in developing countries

23. States, relevant intergovernmental and non-governmental organizations, and financial institutions, should address developing country needs for financial and technical assistance, technology transfer, training and scientific cooperation, in order to build capacity to implement cost-effective and sustainable fishery data collection, data processing, analysis and reporting, and exchange information. Capacity building is necessary to fulfil national needs, the needs of regional fishery bodies and arrangements, and existing obligations for reporting fisheries data to FAO, so that developing countries can more fully

participate in and benefit from the Strategy.

Data collection systems in small-scale fisheries and multispecies fisheries

24. States, relevant intergovernmental and non-governmental organizations, and financial institutions should recognize that many small-scale fisheries and multispecies fisheries, particularly in developing countries, are not well monitored and awareness needs to be raised on the importance of monitoring these fisheries. They are probably underestimated and therefore under-represented in current fisheries status and trends information, and consequently they are not adequately considered in the development of plans and policies for fisheries.

Expanding the scope of information on status and trends of fisheries, including the need to incorporate ecosystem considerations into fisheries management

29. States should approach the implementation of the Code of Conduct, in particular as this relates to Article 7 (Fisheries Management), especially Article 7.4.2, and Article 12 (Fisheries Research), by considering ways to expand the scope of status and trends reporting to meet the responsibilities recommended therein for research and the dissemination of information on the effects of climatic, environmental and socio-economic factors on fishery conservation and management.

30. States, directly or through participation in regional fishery bodies and arrangements, should consider broadening the collection of information on the status and trends of fisheries to support further

development of fisheries management incorporating ecosystem considerations.

KEYWORDS

Capacity building, COFI, conservation, data collection, data analysis, ecosystem approach, FIGIS, fish stocks, fisheries management, fishery policy, guidelines, indicators, information, IPOA, marine fisheries, multispecies fisheries, precautionary approach, small scale fisheries, statistics, sustainable use, sustainable fisheries, traditional knowledge, training

RELEVANCE TO FISHERIES/ FISHWORKERS

These Guidelines provide a basic framework for understanding the status and trends in fisheries, helpful in fisheries policymaking and management. They also list various requirements, and emphasize the need for capacity building in developing countries.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The issue of data is vital from a small-scale fisheries perspective, given a context where the role and contribution of small-scale fisheries, and of women and men in the sector, are widely known to be underestimated. This lack of visibility, as pointed out in Para 24, implies that fisheries policies are not based on a recognition of this reality.

The Guidelines recognize the importance of monitoring small-scale and multispecies fisheries, especially in developing countries. They ask States to ensure that the data collected is complete, and includes information on small-scale fisheries. They urge for participatory data collection systems that would involve fishers and their organizations. They also call on FAO, Member States and developing partner agencies to develop innovative guidelines and approaches.

Some Relevant United Nations General Assembly Resolutions

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Resolution

INITIATING BODY

United Nations General Assembly

FURTHER INFORMATION

The General Assembly is the main deliberative organ of the United Nations. (UNGA). The General Assembly's regular session usually begins each year in September. The General Assembly adopts resolutions relating to the "Oceans and the Law of the Sea" and to "Sustainable Development and Fisheries Management". This section provides information on some of the selected resolutions adopted by the General Assembly relating to this theme.

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly: The General Assembly is the main deliberative organ of the United Nations

Monitoring and implementation

Division of Ocean Affairs and Law of the Sea (DOALOS)

Periodicity of meetings

The United Nations General Assembly meets once a year

Participation in meetings

Decision-making body: United Nations General Assembly

Voting rights: Member states of the United Nations

Observers: Non-member states and other intergovernmental organizations can be present as observers at the General Assembly. NGOs do not enjoy official consultative status with the General Assembly, although they are allowed to participate in its activities by invitation.

Secretariat

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(A detailed list of UNGA resolutions related to oceans and the law of the sea and fisheries issues can be obtained from the website of the Division for Ocean Affairs and the Law of the Sea, http://www.un.org/depts/los/general_assembly/general_assembly_resolutions.htm)

Large-scale Pelagic Drift-net Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas

NUMBER

44/225

OBJECTIVES

To put in place a moratorium on all large-scale pelagic drift-net fishing on the high seas by 30 June 1992.

DATE OF ADOPTION

22 December 1989

SELECTED PARAGRAPHS

The General Assembly,

Noting that many countries are disturbed by the increase in the use of large-scale pelagic drift-nets, which can reach or exceed 30 miles (48 kilometres) in total length, to catch living marine resources on the high seas of the world's oceans and seas,

Mindful that large-scale pelagic drift-net fishing, a method of fishing with a net or a combination of nets intended to be held in a more or less vertical position by floats and weights, the purpose of which is to enmesh fish by drifting on the surface of or in the water, can be a highly indiscriminate and wasteful fishing method that is widely considered to threaten the effective conservation of living marine resources, such as highly migratory and anadromous species of fish, birds and marine mammals,

Drawing attention to the fact that the present resolution does not address the question of small-scale drift-net fishing traditionally conducted in coastal waters, specially by developing countries, which provides an important contribution to their subsistence and economic development,

Expressing concern that, in addition to targeted species of fish, non-targeted fish, marine mammals, seabirds and other living marine resources of the world's oceans and seas can become entangled in large-scale pelagic drift-net, either in those in active use or in those that are lost or discarded, and as a result of such entanglement are often either injured or killed,

Recognizing that some members of the international community have taken steps to reduce their drift-net operations in some regions in response to regional concerns,

- (a) Moratoria should be imposed on all large-scale pelagic drift-net fishing by 30 June 1992, with the understanding that such a measure will not be imposed in a region or, if implemented, can be lifted, should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent unacceptable impact of such fishing practices on that region and to ensure the conservation of the living marine resources of that region;

FURTHER INFORMATION

This resolution is further affirmed through resolution no's:

- 45/197 adopted in 1990
- 46/215 adopted in 1991
- 51/36 adopted in 1996
- 52/29 adopted in 1997
- 57/142 adopted in 2002

Unauthorized Fishing in Zones of National Jurisdiction and its Impact on the Living Marine Resources of the World's Oceans and Seas

NUMBER
49/116

OBJECTIVES

To deal with the problem of unauthorized fishing in zones under national jurisdiction, by calling on flag States to take measures to ensure that fishing vessels entitled to fly their national flag do not fish in zones under the national jurisdiction of other States, unless duly authorized by the competent authorities of the coastal State or States concerned.

DATE OF ADOPTION
19 December 1994

SELECTED PARAGRAPHS

Expressing deep concern at the detrimental impact of unauthorized fishing in zones under national jurisdiction, where the overwhelming proportion of the global fish catch is harvested, on the sustainable development of the world's fishery

resources and on the food security and economies of many States, particularly the developing countries,

1. Calls upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea, to take measures to ensure that no fishing vessels entitled to fly their national flag fish in zones under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned; such authorized fishing operations should be carried out in accordance with the conditions set out in the authorization;

FURTHER INFORMATION

This resolution is further reaffirmed through resolution no.s:

- 51/36 adopted in 1996
- 52/29 adopted in 1997

Fisheries By-catch and Discards and Their Impact on the Sustainable Use of the World's Living Marine Resources

NUMBER

49/118

OBJECTIVES

To control by-catch and discards in fisheries to ensure the long-term and sustainable development of fisheries.

DATE OF ADOPTION

19 December 1994

SELECTED PARAGRAPHS

Recognizing also that improvements in monitoring and assessing by-catch and discards and in by-catch reduction techniques continue to be necessary,

1. Notes the important role that fisheries play in contributing to a sustainable food supply and livelihood of present and future generations;

2. Believes that the issue of by-catch and discards in fishing operations warrants serious attention by the international community;
3. Also believes that a continued and effective response to the issue of addressing fisheries by-catch and discards is necessary so as to ensure the long-term and sustainable development of fisheries, taking into account the relevant principles contained in the Rio Declaration on Environment and Development;

FURTHER INFORMATION

This is further affirmed through resolution no.s:

- 51/36 adopted in 1996
- 52/29 adopted in 1997
- 57/142 adopted in 2002
- 58/14 adopted in 2003
- 59/25 adopted in 2004

Large-scale Pelagic Drift-net Fishing: Unauthorized Fishing in Zones of National Jurisdiction and on the High Seas, Fisheries By-catch and Discards; and Other Developments

NUMBER

52/29

OBJECTIVES

To control large-scale drift-net fishing, unauthorized fishing and by-catch and discards, in line with earlier resolutions on these issues.

DATE OF ADOPTION

26 November 1997

SELECTED PARAGRAPHS

Noting that the Code of Conduct for Responsible Fisheries, adopted by the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995, sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

6. Calls upon States and other entities referred to in article 10, paragraph 1, of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the

High Seas that have not done so to accept the Agreement;

7. Notes that no party to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to do so by the appropriate authority or authorities of that party, and that a fishing vessel so authorized shall fish in accordance with the conditions set out in the authorization;
8. Welcomes initiatives undertaken in the Food and Agriculture Organization of the United Nations to develop and propose guidelines leading to a plan of action aiming at a reduction in the incidental catch of sea birds, to organize an expert consultation to develop and propose guidelines leading to a plan of action for the conservation and effective management of shark populations and to hold a technical consultation on the management of fishing capacity to draft guidelines for the control and management of fishing capacities;

Agreement for the Implementation of the Provision of the UN 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

NUMBER

56/13

OBJECTIVES

It calls on States to cooperate in relation to the effective conservation, management and long-term sustainability of straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements.

DATE OF ADOPTION

28 November 2001

SELECTED PARAGRAPHS

4. Urges all States and other entities referred to in the Agreement to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation, management and long-term sustainability of such stocks, to agree upon measures necessary to coordinate and, where there are no subregional or regional fisheries management organizations or arrangements in respect of particular straddling or highly migratory fish stocks, to cooperate

to establish such organizations or enter into other appropriate arrangements;

9. Invites States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of those fisheries resources;
17. Encourages States to give effect to the principles elaborated in article 5 of the Agreement, including ecosystem considerations, in the conservation and management of straddling fish stocks and highly migratory fish stocks, and to incorporate those principles in fisheries management at the national level and in subregional or

Oceans and Fisheries Management

regional fisheries management organizations or arrangements to which they are party or in which they are participants, or as appropriate at the global level;

18. Urges all States to apply the precautionary approach widely to

the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority.

Oceans and the Law of the Sea

NUMBER

57/141

OBJECTIVES

To review progress on the implementation of UNCLOS and other ocean issues.

DATE OF ADOPTION

12 December 2002

SELECTED PARAGRAPHS

II. World Summit on Sustainable Development

8. Also welcomes the commitments set out in the Johannesburg Plan of Implementation to actions at all levels, within specific periods for certain goals, to ensure the sustainable development of the oceans, including sustainable fisheries, the promotion of the conservation and management of the oceans, the enhancement of maritime safety and the protection of the marine environment from pollution, and the improvement of scientific understanding and assessment of marine and coastal ecosystems as a fundamental basis for sound decisionmaking;

XI. Marine environment, marine resources and sustainable development

41. Emphasizes once again the importance of the implementation of Part XII of the Convention in order to protect and preserve the marine environment and its living marine resources against pollution and physical degradation, and calls upon all States to cooperate and take measures, directly or through competent international organizations, for the protection and preservation of the marine environment;

43. Also calls upon States to advance the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities, to enhance maritime safety and the protection of the marine environment from pollution and other physical impacts, and to improve the scientific understanding and assessment of marine and coastal ecosystems as a fundamental basis for sound decision-making through the actions identified in the Johannesburg Plan of Implementation.

Large-scale Pelagic Drift-net Fishing, Unauthorized Fishing in Zones of National Jurisdiction and on the High Seas/ Illegal, Unreported and Unregulated Fishing, Fisheries By-catch and Discards, and Other Developments

NUMBER
57/142

DATE OF ADOPTION
12 December 2002

SELECTED PARAGRAPHS

1. Reaffirms the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention, in particular the provisions on cooperation set out in part V and part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas, and where applicable, the Agreement;
3. Urges all States to apply the precautionary approach widely to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;
4. Encourages States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decisions V/6 and VI/12 of the Conference of the Parties to the Convention on Biological Diversity, supports continuing work under way in the Food and Agriculture Organization of the United Nations to develop guidelines for the implementation of ecosystem considerations in fisheries management, and notes the importance of relevant provisions of the Agreement and the Code of Conduct for Responsible Fisheries to this approach;
7. Appeals to States and regional fisheries organizations, including regional fisheries management bodies and regional fisheries arrangements, to promote the application of the Code of Conduct for Responsible Fisheries within their areas of competence;
8. Encourages coastal States to develop ocean policies and mechanisms on integrated management, including at the subregional and regional levels, and also including assistance to developing States in accomplishing these objectives

14. Urges States to develop and implement national and, where appropriate, regional plans of action, to put into effect by 2004 the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations and to establish effective monitoring, reporting and enforcement and control of fishing vessels, including by flag States, to further the International Plan of Action;

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

NUMBER
58/14

sustainability of shark populations and fisheries,

DATE OF ADOPTION
24 November 2003

Implementation of 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

SELECTED PARAGRAPHS

Preamble

Noting that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (“the Code”) and its associated international plans of action set out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Recognizing also the urgent need for action at all levels to ensure the long-term sustainable use and management of fisheries resources,

Recognizing further the economic and cultural importance of sharks in many countries, the biological importance of sharks in the marine ecosystem, the vulnerability of some shark species to over-exploitation and the need for measures to promote the long-term

10. Decides to establish an Assistance Fund under Part VII of the Agreement to assist developing States parties in the implementation of the Agreement, to be administered by the Food and Agriculture Organization of the United Nations, which should act as the implementing office for the Fund, in collaboration with the United Nations, in accordance with the terms of reference as agreed at the second round of informal consultations of the States parties to the Agreement and appropriate arrangements made between them;

I. Achieving sustainable fisheries

1. Reaffirms the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world’s oceans and seas and the

obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention, in particular the provisions on cooperation set out in Part V and Part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas, and where applicable, the Agreement;

4. Urges all States to apply the precautionary approach widely to the conservation, management and exploitation of fish stocks, including straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

IV. Illegal, unreported and unregulated fishing

19. Calls upon States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, without having effective control over their activities, and to take specific measures, including deterring the reflagging of vessels by their nationals, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;
27. Urges States to eliminate subsidies that contribute to illegal, unreported

and unregulated fishing and to overcapacity, while completing the efforts undertaken at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;

V. Fishing overcapacity

30. Calls upon States and relevant regional fisheries management organizations, as a matter of priority, to take effective measures to improve the management of fishing capacity and to put into effect by 2005 the International Plan of Action for the Management of Fishing Capacity, taking into account the need, through these actions, to avoid the transfer of fishing capacity to other fisheries or areas including, but not limited to, those areas where fisheries are overexploited or in a depleted condition;
31. Urges those States and other entities referred to in article X, paragraph 1, of the Compliance Agreement that have become parties to it to establish a record of fishing vessels authorized to fish on the high seas and, pursuant to articles IV and VI thereof, to make such a record available to the Food and Agriculture Organization of the United Nations as a matter of priority, and urges the Food and Agriculture Organization to quickly establish the record of fishing vessels as called for in the Compliance Agreement;

VII. Fisheries by-catch and discards

34. Urges States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that have not done so to take action to reduce or eliminate by-catch, catch

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by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

IX. Responsible fisheries in the marine ecosystem

43. Encourages States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decisions V/6 and VI/12 of the Conference of the Parties to the Convention on Biological Diversity, encourages States to consider the guidelines of the Food

and Agriculture Organization of the United Nations for the implementation of ecosystem considerations in fisheries management, and notes the importance to this approach of the relevant provisions of the Agreement and the Code;

48. Urges States, including those working through subregional or regional fisheries management organizations and arrangements implementing the International Plan of Action for the Conservation and Management of Sharks, to collect scientific data regarding shark catches and to consider adopting conservation and management measures, particularly where shark catches from directed and non-directed fisheries have a significant impact on vulnerable or threatened shark stocks, in order to ensure the conservation and management of sharks and their long-term sustainable use, including by banning directed shark fisheries conducted solely for the purpose of harvesting shark fins and by taking measures for other fisheries to minimize waste and discards from shark catches, and to encourage the full use of dead sharks;

Oceans and the Law of the Sea

NUMBER

58/240

OBJECTIVES

To review progress on the implementation of UNCLOS and other ocean issues.

DATE OF ADOPTION

23 December 2003

SELECTED PARAGRAPHS

X. Marine environment, marine resources and the protection of vulnerable marine ecosystems

46. Emphasizes once again the importance of the implementation of Part XII of the Convention in order to protect and preserve the marine environment and its living marine resources against pollution and physical degradation, and calls upon all States to cooperate and take measures, directly or through competent international organizations, for the protection and preservation of the marine environment;
51. Reiterates its call for urgent consideration of ways to integrate and improve, on a scientific basis, the management of risks to the marine biodiversity of seamounts, cold-water coral reefs and certain other underwater features;
52. Invites the relevant global and regional bodies, in accordance with their mandates, to investigate urgently how to better address, on a scientific basis, including the application of precaution, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity in areas beyond national jurisdiction; how existing treaties and other relevant instruments can be used in this process consistent with international law, in particular with the Convention, and with the principles of an integrated ecosystem-based approach to management, including the identification of those marine ecosystem types that warrant priority attention; and to explore a range of potential approaches and tools for their protection and management; and requests the Secretary-General to cooperate and liaise with those bodies and to submit an addendum to his annual report to the General Assembly at its fifty-ninth session, describing the threats and risks to such marine ecosystems and biodiversity in areas beyond national jurisdiction as well as details on any conservation and management measures in place at the global, regional, subregional or national levels addressing these issues;
54. Reaffirms the efforts of States to develop and facilitate the use of diverse approaches and tools for conserving and managing vulnerable marine ecosystems, including the establishment of marine protected areas, consistent with international law and based on the best scientific information available, and the development of representative networks of such marine protected areas by 2012;
56. Urges States and relevant global and regional bodies to enhance their

Oceans and Fisheries Management

cooperation in the protection and preservation of coral reefs, mangroves and seagrass beds, including through the exchange of information;

XII. Regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects

64. Welcomes the report of the Secretary-General containing proposals on modalities for the establishment of a regular process under the United Nations for global reporting and assessment of the state of the marine environment, including socio-economic aspects, and requests the Secretary-General, in close collaboration with Member States, relevant organizations and agencies and programmes of the United Nations system, other competent intergovernmental organizations and relevant non-governmental organizations, to take the following steps to establish the regular process by 2004:

(a) Convene a group of experts of no more than twenty-four participants comprising representatives of States, including all regional groups, and representatives from intergovernmental organizations and non-

governmental organizations, including scientists and policy makers, to produce, including by possibly hiring a consultant, a draft document with details on the scope, general framework and outline of the regular process, peer review, secretariat, capacity-building and funding, and to consider, review and refine the draft document;

- (b) Transmit the draft document to States and relevant intergovernmental organizations, non-governmental organizations, scientific associations, funding mechanisms and other parties for written comments and for indication of specific issues to be addressed in the first assessment;
- (c) Request the group of experts to revise the draft document in the light of comments made;
- (d) Convene an international workshop with representatives from all interested parties, in conjunction with the fifth meeting of the Consultative Process, to further consider and review the draft document;
- (e) Convene an intergovernmental meeting to finalize and adopt the document and to formally establish the regular process.

Oceans and the Law of the Sea

NUMBER

59/24

OBJECTIVES

To review progress on the implementation of UNCLOS.

DATE OF ADOPTION

17 November 2004

SELECTED PARAGRAPHS

I. Implementation of the Convention and related agreements and instruments

3. Calls upon all States that have not done so to become parties to the 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 (“the Fish Stocks Agreement”);

IX. Maritime safety and security and flag State implementation

38. Once again urges flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to ensure effective compliance with, and implementation and enforcement of, their responsibilities under international law and, until such action is undertaken, to consider declining the granting of the right to fly their flag to new vessels, suspending their registry or not opening a registry;

45. Invites the International Maritime Organization to take steps within its mandate to harmonize, coordinate and evaluate port State control in

relation to safety and pollution standards, as well as maritime security regulations and, in collaboration with the International Labour Organization, labour standards so as to promote the implementation of globally agreed minimum standards by all States, and invites the Food and Agriculture Organization of the United Nations to continue its work in promoting port State measures in relation to fishing vessels in order to combat illegal, unreported and unregulated fishing;

X. Marine environment, marine resources, marine biodiversity and the protection of vulnerable marine ecosystems

54. Emphasizes once again the importance of the implementation of Part XII of the Convention in order to protect and preserve the marine environment and its living marine resources against pollution and physical degradation, and calls upon all States to cooperate and take measures, directly or through competent international organizations, for the protection and preservation of the marine environment;

66. Calls upon States to implement strategies and programmes for an integrated ecosystem-based approach to management, developed by the Conference of the Parties to the Convention on Biological Diversity, the Food and Agriculture Organization of the United Nations and other relevant global and regional organizations, and urges those organizations to cooperate in the development of practical guidance to assist States in this regard;

Sustainable fisheries, including through the 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

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17 November 2004

SELECTED PARAGRAPHS

I: Achieving sustainable fisheries

4. Urges all States to apply the precautionary approach and the ecosystem approach widely to the conservation, management and exploitation of fish stocks, including straddling fish stocks and highly migratory fish stocks, and also calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

II: Implementation of 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

5. Calls upon all States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, that have not done so to ratify or accede to the Agreement and in the interim to consider applying it provisionally;

6. Emphasizes the importance of the effective implementation of the

provisions of the Agreement, including those provisions relating to bilateral, regional and subregional cooperation in enforcement, and urges continued efforts in this regard;

VII: Fisheries by-catch and discards

45. Urges States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that have not done so to take action to reduce or eliminate by-catch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

IX: Responsible fisheries in the marine ecosystem

58. Encourages States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and Decision VII/11 and other relevant decisions of the Conference of the Parties to the Convention on Biological Diversity, notes the work of the Food and Agriculture Organization of the United Nations related to guidelines for the implementation of the ecosystem approach to fisheries management, and also notes the importance to this approach of relevant provisions of the Agreement and the Code;

65. Calls upon States, the Food and Agriculture Organization of the United Nations and other specialized agencies of the United Nations, subregional and regional fisheries management organizations and arrangements, where appropriate, and other appropriate intergovernmental bodies, to cooperate in achieving sustainable aquaculture, including through information exchange, developing equivalent standards on such issues as aquatic animal health and human health and safety concerns, assessing the potential positive and negative impacts of aquaculture, including socio-economics, on the marine and coastal environment, including biodiversity, and adopting relevant methods and techniques to minimize and mitigate adverse effects;

66. Calls upon States, either by themselves or through regional fisheries management organizations or arrangements, where these are competent to do so, to take action urgently, and consider on a case-by-case basis and on a scientific basis, including the application of the precautionary approach, the interim prohibition of destructive fishing practices, including bottom trawling, which has adverse impacts on vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold-water corals located beyond national jurisdiction, until such time as appropriate conservation and management measures have been adopted in accordance with international law;

X: Capacity-building

76. Reiterates the crucial importance of cooperation by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including the Food and Agriculture Organization of the United Nations through its FishCODE programme, including through financial and/or technical assistance, in accordance with the Agreement, the Compliance Agreement, the Code and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Conservation and Management of Sharks, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

**International Legal Instruments Relevant
to Fisheries and Fishing Communities:
A Handbook**

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International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook provides detailed information for a wide range of legal instruments relevant to fisheries and fishworkers. It covers 114 legal instruments, categorized into the following seven themes:

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- Environment and Sustainable Development
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The handbook also includes the working of the instruments (decision-making bodies, monitoring and implementation agencies, periodicity of meetings, rules for participation in meetings of the decision-making bodies and implementation agencies for States and non-governmental organizations), regional instruments/agencies and follow-up. Apart from being a ready reckoner to the instruments, it highlights the important sections of relevance to fisheries/small-scale fisheries/fishworkers.

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