

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

Introduction



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

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Introduction

In 2003, the International Collective in Support of Fishworkers (ICSF) conducted “Empowerment through Information: Training Programme for Fishworker Organizations and Non-governmental Organizations (NGOs)”. As part of the preparations for the training programme, a draft handbook and companion CD-ROM on “International Legal Instruments Relevant to Fisheries” were produced and distributed to participants. The draft handbook classified 57 instruments into legally binding and non-binding types, and provided the following information: long title of the instrument, short title, acronym, legal status, objectives, date of opening for signature, date of entry into force, signatories, ratifications, contents, additional instruments, initiating body, decision-making body, periodicity, participation in decision-making body, secretariat, relevance to fisheries, relevance to small-scale fisheries, keywords and relevant articles.

Based on feedback from the participants of the training programme and other readers, it was decided to revise the handbook. It was also realized that the handbook could be important in the advocacy and campaign activities of fishworker organizations, NGOs and others working in the sector.

This is the revised version of the handbook. It provides more detailed information for a wider range of legal instruments relevant to fisheries and fishworkers. It covers 114 legal instruments, categorized into seven themes, namely, human rights, food security, women and development; environment and sustainable development; oceans and fisheries management; environmental pollution; fishing vessels and safety at sea; labour; and trade.

This version also contains information on 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 NGOs), regional instruments/agencies and follow-up to the instrument.

Most of these instruments were initiated either through discussions at, or from a resolution of, the United Nations (UN) General Assembly or by UN programmes like the United Nations Environment Programme (UNEP); specialized agencies of the UN like the Food and Agriculture Organization of the United Nations (FAO); the International Labour Organization (ILO); the

International Maritime Organization (IMO); and the World Trade Organization (WTO). Each theme classifies the instruments based on their legal status (binding and non-binding) and type (treaty, convention, agreement, protocol, resolution, recommendation, voluntary guidelines, conference declaration and plan of action). The most important of all treaties is the Vienna Convention on the Law of Treaties, 1969, which, while recognizing the fundamental role of treaties in international relations, provides the framework for the formation of a treaty/agreement.

This revised edition of the handbook is far more extensive and comprehensive than the draft version. It also features a glossary that explains the various terms used in treaty-making. Apart from being a ready reckoner to the instruments, it highlights the important sections of relevance to fisheries/small-scale fisheries/fishworkers. The companion CD-ROM provides the full texts of all the instruments in a searchable format, along with details of the working of the instruments and the decisions of the various committees.

The contents of both the handbook and the CD-ROM are current as on March 2005. In cases where some information fields are absent (e.g., Short Title, Acronym), this is because they are not officially used or available. It is also available online at www.icsf.net

The Selected Paragraphs/Articles sections contain unedited excerpts, copied verbatim, from the relevant instruments and may not be stylistically consistent with the rest of the publication.

Comments and suggestions on this handbook are welcome for possible incorporation in future editions. They may be sent to icsf@icsf.net

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- Secretariat of the Convention on Biological Diversity (CBD)
- Secretariat of the Convention on Wetlands (Ramsar)
- Secretariat of the World Heritage Convention (WHC)
- Secretariat of the Convention on Migratory Species (CMS)
- Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC)
- Division for Ocean Affairs and the Law of the Sea, United Nations (DOALOS)
- International Labour Office of the International Labour Organization (ILO)
- World Trade Organization (WTO)

Acronyms

ACP	Africa, Caribbean and Pacific
AFTA	ASEAN Free Trade Area
ASEAN	Association of Southeast Asian Nations
AIDS	acquired immune deficiency syndrome
ASCOBANS	Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas
ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area
AIMS	Atlantic, Indian Ocean, Mediterranean and the South China Sea
BPoA	Barbados Plan of Action
CAC	Codex Alimentarius Commission
CAP	conformity assessment procedures
CBD	Convention on Biological Diversity
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources
CCPR	(International) Covenant on Civil and Political Rights
CCRF	Code of Conduct for Responsible Fisheries
CCSBT	Convention for the Conservation of Southern Bluefin Tuna
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEPA	Committee on Education and Public Awareness
CEPTFA	Council of the Eastern Pacific Tuna Fishing Agreement
CESCR	Committee on Economic, Social and Cultural Rights
CFA	Committee on Freedom of Association (of ILO)
CFC	chlorofluorocarbons
CFS	Committee on World Food Security (of FAO)
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)
COFI	Committee on Fisheries (of FAO)
COLREGs	Convention on the International Regulations for Preventing Collisions at Sea
COMESA	Common Market for Eastern and Southern Africa
COP	Conference of Parties
CPR	common property resources
CRTA	Committee on Regional Trade Agreements (of WTO)
CSD	Commission on Sustainable Development
CSW	Commission on the Status of Women (of UN)
CSocD	Commission for Social Development (of UN)
CTD	Committee on Trade and Development (of WTO)
CTE	Committee on Trade and Environment (of WTO)

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CTG	Committee on Trade in Goods (of WTO)
CTS	Committee on Trade in Services (of WTO)
DAW	Division for the Advancement of Women (of UN)
DESA	Department of Economic and Social Affairs (of UN)
DFP	destructive fishing practices
DFT	destructive fishing techniques
DOALOS	Department of Ocean Affairs and the Law of the Sea (of UN)
DSB	Dispute Settlement Body (of WTO)
DSD	Division for Sustainable Development (of UN)
DSU	disputes settlement understanding (of the Uruguay Round)
DTE	Decision on Trade and Environment
EAF	ecosystem approach to fisheries
EC	European Commission
ECOSOC	Economic and Social Council (of UN)
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EEZ	exclusive economic zone
EGTT	Expert Group on Technology Transfer
EIA	environmental impact assessment
EMS	environmental management systems
ESM	environmentally sound management
ESP	Committee on Employment and Social Policy (of ILO)
EU	European Union
FAD	fish aggregating device.
FAO	Food and Agriculture Organization of the United Nations
FDI	foreign direct investment
FFA	Forum Fisheries Agency (of the South Pacific)
FIGIS	Fisheries Global Information System (of FAO)
FOC	flag of convenience
FSU	floating storage units
FPSO	floating production storage and offloading (unit)
FWCW	Fourth World Conference on Women (Beijing Conference)
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GATTEMIT	GATT group on Environmental Measures and International Trade
GPA	Global Programme of Action
GPA-LBA	Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities
GCRMN	Global Coral Reef Monitoring Network
GEF	Global Environment Facility
GESAMP	Group of Experts on the Scientific Aspects of Marine Environmental Protection
GFCM	General Fisheries Council for the Mediterranean
GIS	geographic information system

GISP	Global Invasive Species Programme
GIWA	Global International Waters Assessment
GPS	global positioning system
GTI	Global Taxonomy Initiative
HCFC	hydrochlorofluorocarbon
HMS	highly migratory species
HRD	human resource development
HS	harmonized system
HIPC	heavily indebted poor countries
HIV	human immunodeficiency virus
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development (World Bank)
ICAM	integrated coastal area management
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICCPR	International Covenant on Civil and Political Rights
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICES	International Council for the Exploration of the Sea
ICESC	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICOMOS	International Council on Monuments and Sites
ICPD	International Conference on Population and Development
ICRI	International Coral Reef Initiative
ICS	international code of signals
ICZM	integrated coastal zone management
IGO	inter-governmental organization
ILO	International Labour Organization
IMCAM	integrated marine and coastal area management
IMF	International Monetary Fund
IMCO	Intergovernmental Maritime Consultative Organization (former name of IMO)
IMO	International Maritime Organization
INC	Intergovernmental Negotiating Committee
IOC	International Oceanographic Commission
IOSEA	Indian Ocean and South-East Asia
IOTC	Indian Ocean Tuna Commission
IPCC	Intergovernmental Panel on Climate Change
IPOA	international plan of action
IPPC	International Plant Protection Committee
IPR	intellectual property rights
ISO	International Standards Organization
ITLOS	International Tribunal for the Law of the Sea
IUCN	International Union for the Conservation of Nature and Natural Resources (now called IUCN-The World Conservation Union)
IUU	illegal, unreported and unregulated (fishing)
IWC	International Whaling Commission
IWRB	International Wildfowl Research Bureau

Introduction

JPoI	Johannesburg Plan of Implementation
LAR	living aquatic resources
LBA	land-based activities
LCA	life cycle analysis
LDC	least developed country
LDC	London Dumping Convention
LIFDC	low-income food-deficit countries
LILS	Committee on Legal Issues and International Labour Standards (of ILO)
LME	large marine ecosystem
MAFOR	marine (weather) forecast
MARPOL	International Convention for the Prevention of Pollution from Ships
MCPA	marine and coastal protected area
MCS	monitoring, control and surveillance
MDG	Millennium Development Goals
MEA	multilateral environmental agreements
MEPC	Marine Environment Protection Committee
MFN	most favoured nation
MNE	(Subcommittee on) Multinational Enterprises (of ILO)
MOP	Meeting of Parties
MoU	memorandum of understanding
MPA	marine protected area
MSC	Maritime Safety Committee
MSY	maximum sustainable yield
NAMA	non-agricultural market access
NEAFC	North East Atlantic Fisheries Commission
NEPAD	New Partnership for Africa's Development
NGLS	Non-Governmental Liaison Service (of UN)
NGMA	Negotiating Group on Market Access (of WTO)
NGO	non-governmental organization
NGR	Negotiating Group on Rules (of WTO)
NPAFC	North Pacific Anadromous Fish Commission
NPOA	national plan of action
NTB	non-tariff barriers
ODA	Overseas Development Aid
OECD	Organization for Economic Co-operation and Development
OIE	Office International des Epizooties (International Office of Epizootics)
OEWG	Open-Ended Working Group
PADH	physical alteration and destruction of habitats
PFA	Programme, Financial and Administrative Committee (of ILO)
PGE	Permanent Group of Experts
PHF	post-harvest fisheries
PIC	prior informed consent
PoA	plan of action

POPs	persistent organic pollutants
PSSA	particularly sensitive sea area
REIO	regional economic integration organization
RFMO	regional fisheries management organization
RFO	regional fisheries organization
RTA	regional trade agreements
SADC	Southern African Development Community
SAR	search and rescue (operations at sea)
SBI	Subsidiary Body for Implementation
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice (to the CBD)
SCM	subsidies and countervailing measures
SEAFO	South East Atlantic Fisheries Organization
SFV	Safety of Fishing Vessels (The Torremolinos International Convention for the Safety of Fishing Vessels)
SIDS	small island developing States
SLF	Stability and Load Lines and Fishing Vessels Safety (a sub-committee of the MSC of IMO)
SNA	system of national accounts
SOLAS	Safety of Life at Sea
SPS	sanitary and phytosanitary standards (measures or regulations)
STCW-F	Standards of Training, Certification and Watchkeeping for Fishing (International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel)
STM	Committee on Sectoral and Technical Meetings and Related Issues (of ILO)
STRP	Scientific and Technical Review Panel (of the Ramsar Convention)
SWIOFC	Southwest Indian Ocean Fisheries Commission
TA	technical assistance
TAC	total allowable catch
TBPA	transboundary protected area
TBT	technical barriers to trade
TC	Committee on Technical Co-operation (of ILO)
TEAP	Technology and Economic Assessment Panel (of UNEP)
TEK	traditional ecological knowledge
TNC	transnational corporation
TRIPS	trade-related aspects of intellectual property rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCED	United Nations Conference on Environment and Development (Rio Summit or Earth Summit)
UNCHE	United Nations Conference on Human Environment
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme

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UNEP	United Nations Environment Programme
UNESCO	United Nations Economic, Social and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFSA	United Nations Fish Stocks Agreement
UNGA	United Nations General Assembly
UNHCHR	United Nations High Commissioner for Human Rights
UNICPOLOS	United Nations Informal Consultative Process on the Law of the Sea
VMS	vessel monitoring systems
WEAMU	West African Economic and Monetary Union
WCARRD	World Conference on Agrarian Reform and Rural Development
WCHR	World Conference on Human Rights
WCMC	World Conservation Monitoring Centre
WCPA	World Commission on Protected Areas (of IUCN)
WFS	World Food Summit
WHC	World Heritage Convention
WHO	World Health Organization
WIG	wing-in-ground
WIPO	World Intellectual Property Organization
WP/SDG	Working Party on the Social Dimension of Globalization (of ILO)
WRI	World Resources Institute
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization

Glossary

acceptance: When a State becomes a party to a treaty; it may mean *either* by “signature subject to acceptance” (analogous to ratification) or by acceptance without prior signature (analogous to accession). The text of the treaty usually establishes which meaning of “acceptance” is meant. Also see **ratification**.

access to information: being able to obtain relevant information, especially with respect to environment

accession: the act whereby a State that has not signed a treaty expresses its consent to become a party to that treaty by depositing an “instrument of accession”. Accession has the same legal effect as ratification, acceptance or approval. The conditions under which accession may occur and the procedure involved depend on the provisions of the relevant treaty. Accession is generally employed by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. However, many modern multilateral treaties provide for accession even during the period that the treaty is open for signature.

action plan: a sequence of steps to achieve an endpoint

adoption: the formal act by which negotiating parties establish the form and content of a treaty. The treaty is adopted through a specific act expressing the will of the States and the international organizations participating in the negotiation of that treaty, e.g., by voting on the text, initialing, signing, etc. Adoption may also be the mechanism used to establish the form and content of amendments to a treaty, or regulations under a treaty.

agreement: a decision to do something made by two or more people, organizations, companies or governments. Agreements can be binding or non-binding. A binding agreement is one that everyone who has signed must follow or be punished. Non-binding agreements show that governments are trying to do something but they accept that they may not always be able to do so because of economic reasons.

amendment: the formal alteration of the provisions of a treaty by its parties. Such alterations must be effected with the same formalities that attended the original formation of the treaty. Multilateral treaties typically provide specifically for their amendment.

authentication: the procedure whereby the text of a treaty is established as authentic and definitive. Once a treaty has been authenticated, its provisions cannot be modified except by formal amendment.

authentic language: the language in which the meaning of a treaty's provisions is to be determined

authentic or authenticated text: the version of the treaty that has been authenticated by the parties

binding: for an agreement, one whose terms have to be complied with

certified true copy

certified true copy for depositary purposes: A certified true copy for depositary purposes means an accurate duplication of an original treaty, prepared in all authentic languages, and certified as such by the depositary of the treaty. The Secretary-General of the United Nations circulates certified true copies of each treaty deposited with the Secretary-General to all States and entities that may become parties to the treaty. For reasons of economy, the Secretary-General, as depositary, normally provides only two certified true copies to each prospective participant in the treaty. States are expected to make any additional copies required to fulfil their domestic needs. See article 77(1)(b) of the Vienna Convention 1969.

certified true copy for registration purposes: A certified true copy for registration purposes means an accurate duplication of a treaty submitted to the Secretariat of the United Nations for registration. The registering party must certify that the text submitted is a true and complete copy of the treaty and that it includes all reservations made by the parties. The date and place of adoption, the date and the method whereby the treaty has come into force, and the authentic languages must be included. See article 5 of the Regulations.

clearing-house: any agency that brings together seekers and providers of goods, services or information, thus matching demand with supply

Code of Conduct: FAO's Code of Conduct for Responsible Fisheries

COP (Conference of Parties): meetings of the parties who have signed, accepted or ratified a convention

contracting State: a State that has expressed its consent to be bound by a treaty where the treaty has not yet entered into force or where it has not entered into force for that State

correction: Correction of a treaty is the remedying of an error in its text. If, after the authentication of a text, the signatory and contracting States agree that an error exists, those States can correct the error by:

- a. initialling the corrected treaty text;
- b. executing or exchanging an instrument containing the correction; or
- c. executing the corrected text of the whole treaty by the same procedure by which the original text was executed.

If there is a depositary, the depositary must communicate the proposed corrections to all signatory and contracting States and States parties. In the practice of the United Nations, the Secretary-General, as depositary, informs all States of the error and the proposal to correct it. If, on the expiry of a specified time limit, no signatory or contracting State or State party objects, the Secretary-General circulates a *procès-verbal* of rectification and causes the corrections to be effected in the authentic text(s) *ab initio*. States have 90 days to object to a proposed correction. This period can be shortened if necessary.

See article 79 of the Vienna Convention 1969.

credentials: Credentials take the form of a document issued by a State authorizing a delegate or delegation of that State to attend a conference, including, where necessary, for the purpose of negotiating and adopting the text of a treaty. A State may also issue credentials to enable signature of the Final Act of a conference. Credentials are distinct from full powers. Credentials permit a delegate or delegation to adopt the text of a treaty and/or sign the Final Act, while full powers permit a person to undertake any given treaty action (in particular, signature of treaties).

covenant: a mutual agreement

convention: a formal multilateral treaty with a broad number of parties. In the last century, however, the term was regularly employed for bilateral agreements. Conventions are normally open for participation by the international community as a whole, or by

a large number of States. Usually, instruments negotiated under the auspices of an international organization are entitled conventions. The same holds true for instruments adopted by an organ of an international organization.

customary law: established patterns of behaviour that can be objectively verified within a particular social setting

date of effect: the time when a treaty action (such as signature, ratification, acceptance of an amendment, etc.) is undertaken with the depositary, in the depositary practice of the Secretary-General of the UN

decision: the act or process of deciding; determining after consideration

declaration: formal statement by a State or international organization while ratifying a convention

interpretative declaration: An interpretative declaration is a declaration by a State as to its understanding of some matter covered by a treaty or its interpretation of a particular provision. Unlike reservations, declarations merely clarify a State's position and do not purport to exclude or modify the legal effect of a treaty.

The Secretary-General, as depositary, pays specific attention to declarations to ensure that they do not amount to reservations. Usually, declarations are made at the time of signature or at the time of deposit of an instrument of ratification, acceptance, approval or accession. Political declarations usually do not fall into this category as they contain only political sentiments and do not seek to express a view on legal rights and obligations under a treaty.

mandatory declaration: A mandatory declaration is a declaration specifically required by the treaty itself. Unlike an interpretative declaration, a mandatory declaration is binding on the State making it.

optional declaration: An optional declaration is a declaration that a treaty specifically provides for, but does not require. Unlike an interpretative declaration, an optional declaration is binding on the State making it.

denunciation: the act, by a State, of declaring non-binding a convention that has previously been ratified by the same State

depository (depository) : The depository of a treaty is the custodian of the treaty and is entrusted with the functions specified in article 77 of the Vienna Convention 1969. The Secretary-General, as depository, accepts notifications and documents related to treaties deposited with the Secretary-General, examines whether all formal requirements are met, deposits them, registers them subject to Article 102 of the *Charter of the United Nations* and notifies all relevant acts to the parties concerned. Some treaties describe depository functions. This is considered unnecessary in view of the detailed provision of article 77 of the Vienna Convention 1969.

A depository can be one or more States, an international organization, or the chief administrative officer of the organization, such as the Secretary-General of the United Nations. The Secretary-General does not share depository functions with any other depository. In certain areas, such as dealing with reservations, amendments and interpretation, the Secretary-General's depository practice, which has developed since the establishment of the United Nations, has evolved further since the conclusion of the Vienna Convention 1969. The Secretary-General is not obliged to accept the role of depository, especially for treaties negotiated outside the auspices of the United Nations. It is the usual practice to consult the Treaty Section prior to designating the Secretary-General as depository. The Secretary-General, at present, is the depository for over 500 multilateral treaties.

See articles 76 and 77 of the Vienna Convention 1969.

depository notification (C.N.): A depository notification (sometimes referred to as a C.N., an abbreviation for circular notification) is a formal notice that the Secretary-General sends to all Member States, non-member States, the specialized agencies of the United Nations, and the relevant secretariats, organizations and United Nations offices, as depository of a particular treaty. The notification provides information on that treaty, including actions undertaken. Such notifications are typically distributed by e-mail on the day that they are processed. Notifications with bulky attachments are transmitted in paper form.

entry into force:

definitive entry into force: Entry into force of a treaty is the moment in time when a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine the moment of its entry into force. This may be a date specified in the treaty or a date on which a specified number of ratifications, approvals, acceptances or accessions have been deposited with the depositary.

entry into force for a State: A treaty that has already entered into force may enter into force in a manner specified in it for a State or international organization that expresses its consent to be bound by it after its entry into force.

provisional entry into force: Provisional entry into force may be allowed by the terms of a treaty, for example, in commodity agreements. Provisional entry into force of a treaty may also occur when a number of parties to a treaty that has not yet entered into force decide to apply the treaty as if it had entered into force. Once a treaty has entered into force provisionally, it creates obligations for the parties that agreed to bring it into force in that manner.

enforcement: submission to follow rules and regulations

guidelines: a set of instructions to be followed

final act: A Final Act is a document summarizing the proceedings of a diplomatic conference. It is normally the formal act by which the negotiating parties bring the conference to a conclusion. It is usually part of the documentation arising from the conference, including the treaty, the resolutions and interpretative declarations made by participating States. There is no obligation to sign the Final Act, but signature may permit participation in subsequent mechanisms arising from the conference, such as preparatory committees. Signing the Final Act does not normally create legal obligations or bind the signatory State to sign or ratify the treaty attached to it.

full powers

instrument of full powers: Full powers take the form of a solemn instrument issued by the Head of State, Head of Government or Minister for Foreign Affairs, empowering a named representative to undertake given treaty actions.

The Secretary-General's practice in relation to full powers may differ in certain respects from that of other depositaries. The Secretary-General does not accept full powers transmitted by telex or powers that are not signed.

The Head of State, Head of Government and Minister for Foreign Affairs are considered as representing their State for the purpose of all acts relating to the signature of, and the consent to be bound by, a treaty. Accordingly, they need not present full powers for those purposes.

See articles 2(1)(c) and 7 of the Vienna Convention 1969.

instrument of general full powers: An instrument of general full powers authorizes a named representative to execute certain treaty actions, such as signatures, relating to treaties of a certain kind (for example, all treaties adopted under the auspices of a particular organization).

legally binding: the requirement that contracting parties follow the provisions in the instrument and create legal rights and duties

legislation: a law or set of laws of a particular country

memorandum of understanding (MOU): a less formal international instrument than a typical treaty or international agreement. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. An MOU typically consists of a single instrument and is entered into among States and/or international organizations.

modification: the variation of certain provisions of a treaty only as between particular parties to that treaty. As between other parties, the original provisions apply. If a treaty is silent as to modifications, they are allowed only to the extent that they do not affect the rights or obligations of the other parties to the treaty and do not contravene the object and purpose of the treaty.

multilateral trading system: the system operated by the WTO. Most nations—including almost all the main trading nations—are members of the system. But some are not, so “multilateral” is used to describe the system instead of “global” or “world”.

non-binding: an instrument that cannot be legally enforced on signatories or parties to it e.g. conference declaration

party: a State or other entity with treaty-making capacity that has expressed its consent to be bound by that treaty by an act of ratification, acceptance, approval or accession, etc., where that treaty has entered into force for that particular State. This means that the State is bound by the treaty under international law.

plenipotentiary: the person authorized by an instrument of full powers to undertake a specific treaty action

protocol: an agreement of a less formal nature than that entitled a treaty or convention. Generally, a protocol amends, supplements or clarifies a multilateral treaty.

provisional application

provisional application of a treaty that has entered into force: Provisional application of a treaty that has entered into force may occur when a State unilaterally undertakes to give legal effect to the obligations under a treaty on a provisional and voluntary basis. The State would generally intend to ratify, accept, approve or accede to the treaty once its domestic procedural requirements for international ratification have been satisfied. The State may terminate this provisional application at any time. In contrast, a State that has consented to be bound by a treaty through ratification, acceptance, approval, accession or definitive signature generally can only withdraw its consent in accordance with the provisions of the treaty or, in the absence of such provisions, other rules of treaty law. See article 24 of the Vienna Convention 1969.

provisional application of a treaty that has not entered into force: Provisional application of a treaty that has not entered into force may occur when a State notifies the signatory States to a treaty that has not yet entered into force that it will give effect to the legal obligations specified in that treaty on a provisional and unilateral basis. Since this is a unilateral act by the State, subject to its domestic legal framework, it may terminate this provisional application at any time.

A State may continue to apply a treaty provisionally, even after the treaty has entered into force, until the State has ratified, approved, accepted or acceded to the treaty. A State's provisional application terminates if that State notifies the other States among which the treaty is being applied provisionally of its intention not to become a party to the treaty. See article 25 of the Vienna Convention 1969.

ratification, acceptance, approval: the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Ratification, acceptance and approval all require two steps: the execution of an instrument of ratification, acceptance or approval by the Head of State, Head of Government or Minister for Foreign Affairs, expressing the intent of the State to be bound by the relevant treaty; and, for multilateral treaties, the deposit of the instrument with the depositary; and for bilateral treaties, the exchange of the instruments between parties.

registration: the function of the UN Secretariat in effecting the registration of treaties and international agreements under Article 102 of the Charter of the United Nations

reservation: statement made by a State by which it purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that State. A reservation may enable a State to participate in a multilateral treaty that it would otherwise be unable or unwilling to participate in. States can make reservations to a treaty when they sign, ratify, accept, approve or accede to it. When a State makes a reservation upon signing, it must confirm the reservation upon ratification, acceptance or approval.

revision/ review: an amendment. However, some treaties provide for revisions/reviews separately from amendments (see, e.g., Article 109 of the Charter of the United Nations). In that case, revision/ review typically refers to an overriding adaptation of a treaty to changed circumstances, whereas the term amendment refers to changes to specific provisions.

signature:

definitive signature: signature not subject to ratification. Definitive signature occurs where a State expresses its consent to be bound by a treaty by signing the treaty without the need for ratification, acceptance or approval. A State may definitively sign a treaty only when the treaty so permits.

simple signature: signature subject to ratification. Simple signature applies to most multilateral treaties. This means that when a State signs the treaty, the signature is subject to ratification, acceptance or approval. The State has not expressed its consent to be bound by the treaty until it ratifies, accepts or approves it. In that case, a State that signs a treaty is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty.

treaty: a generic term embracing all instruments binding under international law, regardless of their formal designation, concluded between two or more international juridical persons. Thus, treaties may be concluded between States; international organizations with treaty-making capacity and States; or international organizations with treaty-making capacity.

The Vienna Convention 1969 defines a treaty as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation” (article 2(1)(a)). Accordingly, conventions, agreements, protocols and exchange of letters or notes may all constitute treaties.

bilateral treaty: a treaty between two parties

multilateral treaty: a treaty between more than two parties

plurilateral treaty: a treaty between a few States

Source: United Nations Treaty Collection
<http://untreaty.un.org/English/TreatyHandbook/glossary.htm>

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

Published by

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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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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

Theme I
Human Rights, Food Security,
Women and Development



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

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Relevant to Fisheries and Fishing
Communities:
A Handbook**

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Human Rights, Food Security,
Women and Development

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Introduction

This theme covers one customary international law, four binding instruments, one United Nations General Assembly resolution, and seven conference declarations and plans of action (outcome document).

The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols. The UDHR (1948) proclaimed that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food...” Nearly 20 years later, the International Covenant on Economic, Social and Cultural Rights (1966) developed these concepts more fully, stressing “the right of everyone to ... adequate food” and specifying “the fundamental right of everyone to be free from hunger”. The civil, cultural, economic, political and social rights proclaimed in the UDHR are considered interdependent, interrelated, indivisible and equally important. To be able to enjoy the right to food fully, people need access to healthcare and education, respect for their cultural values, the right to own property and the right to organize themselves economically and politically. These linkages become more obvious when one compares the Millennium Development Goals (MDGs) with Articles 25 and 26 of the UDHR.

The International Conference on the Sustainable Contribution of Fisheries to Food Security (Kyoto Conference) and the World Food Summit (WFS) highlighted the importance of the artisanal/small-scale fisheries sector in meeting the nutritional and food security needs of large, particularly rural, populations, and the need for sustainable management of fisheries resources, based on the precautionary approach and on best scientific evidence available, for achieving food security. The World Food Summit (WFS) recognized the important contribution of the fisheries sector to food security and poverty alleviation.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, together with the Optional Protocol, are often described as an “international bill of rights for women”. The Beijing Conference, Plan of Action, Beijing +5 Conference and the Outcome

document, recognize that empowering the poor, particularly women living in poverty, to utilize environmental resources sustainably is a necessary foundation for sustainable development. They also highlight certain critical areas of concern, some of which are: women and poverty, women and health, women and economy, women and environment and women in power and decision-making processes. These also recognize the role played by women, including those in fisheries, in providing food security and nutrition, and call for better evaluation of their work, especially in the informal sector.

The United Nations Millennium Declaration and the MDGs provide a commitment to reduce poverty and hunger, and support the principles of sustainable development. The MDGs provide time-bound targets to reduce poverty and hunger, empower women, and ensure a global partnership for sustainable development.

International Covenant on Economic, Social and Cultural Rights

ACRONYM

CESCR

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Treaty

OBJECTIVES

- 1) All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- 2) All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
- 3) The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations. (*Article 1*)

CONTENTS

31 Articles

DATE OF ADOPTION

16 December 1966

PLACE OF ADOPTION

New York, US at the United Nations General Assembly by resolution 2200 A (XXI)

DATE OF ENTRY INTO FORCE

3 January 1976

SIGNATORIES

66

RATIFICATIONS

151 Parties (as on 24 November 2004)

ADDITIONAL INSTRUMENTS

- Draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights; and
- Fifteen General Comments

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly

Monitoring and implementation

Committee on Economic, Social and Cultural Rights

Periodicity of meetings

Committee currently convenes twice a year, holding two three-week sessions, generally in May and November/December. It holds all its meetings at the United Nations Office at Geneva.

Participation in meetings

The Committee is comprised of 18 members who are experts with recognized competence in the field of human rights. Members of the Committee are independent and serve in their personal capacity, not as representatives of Governments. At present, the Committee is made up of 13 men and five women. The Committee itself selects its chairperson, three vice-chairpersons and rapporteur. Members of the Committee are elected by ECOSOC for four-year terms, and are eligible for re-election if re-nominated.

NGO Participation: The Committee was the first treaty body to provide non-governmental organizations (NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries. For more information on NGO participation, please visit: <http://www.ohchr.org/english/bodies/cescr/NGOs.htm>

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RECENT UNGA RESOLUTIONS

Resolution 55/90 (adopted at the 55th session of the General Assembly on 4 December 2000) on “International instruments on human rights, including reporting obligations”

Resolution 56/144 (adopted at the 56th session of the General Assembly on 19 December 2001) on “International Covenants of Human Rights”

Resolution 57/202 (adopted at the 57th session of the General Assembly on 18 December 2002) on “Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights”

Resolution 58/165 (adopted at the 58th session of the General Assembly on 22 December 2003) on “International Covenants on Human Rights”

SELECTED ARTICLES***Article 1***

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and

technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any

kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

- (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an

equitable distribution of world food supplies in relation to need.

KEYWORDS

Human rights, economic rights, social rights, cultural rights, convention, freedom, civil rights, trade union, hunger, subsistence, living conditions, child labour, social security, women, wages, working conditions, livelihood

RELEVANCE TO FISHERIES/ FISHWORKERS

The treaty calls for universal economic, social and cultural rights, as well as civil and political rights, including just and favourable conditions of work that ensure fair wages and equal remuneration for work of equal value without distinction of any kind, and safe and healthy working conditions. In particular, Article 3 wants women to be guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. Article 8 guarantees the right to form and join trade unions as well as the right to strike, provided that it is exercised in conformity with the laws of the particular country. The treaty is thus pertinent to fishworkers in fisheries-related work, including women fish processors.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The treaty's call for measures to improve methods of production, conservation and distribution of food, and dissemination of the principles of nutrition by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources. (Article 11.2). It is relevant for small-scale fisheries production systems that are socially, environmentally and economically efficient. It also recognizes the right of everyone to social security (Article 9).

International Covenant on Civil and Political Rights

ACRONYM

CCPR

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Treaty

OBJECTIVES

Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted. (Article 2.3)

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant. (Article 3)

CONTENTS

53 articles

DATE OF ADOPTION

16 December 1966

PLACE OF ADOPTION

New York, US at the United Nations General Assembly by resolution 2200A

DATE OF ENTRY INTO FORCE

23 March 1976

SIGNATORIES

67

RATIFICATIONS

154 Parties (as on 24 November 2004)

ADDITIONAL INSTRUMENTS

- Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly

Monitoring and implementation

Human Rights Committee

United Nations High Commissioner for Human Rights

Periodicity of meetings

The committee convenes thrice a year

Participation in meetings

Only members of the Committee and representatives of the relevant State party may take part in the dialogue. Non-governmental organizations are encouraged to submit written information or reports to the Committee.

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REGIONAL INSTRUMENTS/AGENCIES

- The African Charter on Human and Peoples' Rights
- The American Convention on Human Rights (San Jose Pact)
- The American Declaration of the Rights and Duties of Man
- The (European) Convention for the Protection of Human Rights and Fundamental Freedoms
- The European Social Charter

RECENT UNGA RESOLUTIONS

Resolution 55/90 (adopted at the 55th session of the General Assembly on 4 December 2000) on "International instruments on human rights, including reporting obligations"

Resolution 56/144 (adopted at the 56th session of the General Assembly on 19 December 2001) on "International Covenants of Human Rights"

Resolution 57/202 (adopted at the 57th session of the General Assembly on 18 December 2002) on "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights"

Resolution 58/165 (adopted at the 58th session of the General Assembly on 22 December 2003) on "International Covenants on Human Rights"

SELECTED ARTICLES**Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

KEYWORDS

Civil rights, political rights, human rights, labour, convention, trade unions, women, arrests

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The treaty recognizes civil and political rights, as well as economic, social and

cultural rights of all humans. It asks that no one be subjected to torture or to cruel, inhuman or degrading treatment or punishment, nor be held in servitude or be required to perform forced or compulsory labour. It decries arbitrary arrest or detention, and guarantees liberty of movement and freedom of association with others, including the right to form and join trade unions for the protection of one's interests. It guarantees access, on general terms of equality, to public services in one's own country. The treaty is applicable for all people.

Universal Declaration on Human Rights

ACRONYM

UDHR

LEGAL STATUS

International Customary Law

TYPE OF INSTRUMENT

Resolution

OBJECTIVES

To promote respect for rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. (*Preamble*)

CONTENTS

30 Articles

DATE OF ADOPTION

10 December 1948

PLACE OF ADOPTION

New York, US at the United Nations General Assembly by Resolution 217 A (III)

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly

Monitoring and implementation

Commission on Human Rights
Sub-Commission on the Promotion and Protection of Human Rights

Periodicity of meetings

United Nations Commission on Human Rights meets each year in regular session in March/April for six weeks in Geneva.

Participation in meetings

Voting rights: The United Nations Commission on Human Rights is composed of 53 States.

Observers: Observer States and observers from non-governmental organizations can participate.

Secretariat

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SELECTED ARTICLES

Preamble

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

KEYWORDS

Human rights, United Nations, resolution, employment, social security, livelihood, conditions of work, education, cultural rights, trade unions

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Declaration calls for the promotion of universal respect for, and observance of, human rights and fundamental freedoms, as a common standard of achievement for all peoples and all nations.

These rights include the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment, the right to equal pay for equal work, as well as the right to rest and leisure.

The UDHR also recognizes the right to freedom of peaceful assembly and association, the right to form and join trade unions, and the right to social security. All these are relevant for fishworkers.

World Conference on Human Rights

ACRONYM

WCHR

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

Conference objective: To examine the link between development, democracy and economic, social, cultural, civil and political rights, and to evaluate the effectiveness of United Nations methods and mechanisms with the aim of recommending ways to ensure adequate financial and other resources for United Nations human rights activities.

Declaration: Reaffirmed the principles that have evolved during the past 45 years and further strengthened the foundation for additional progress in the area of human rights. Recognized interdependence between democracy, development and human rights, which prepared the way for future cooperation by international organizations and national agencies in the promotion of all human rights, including the right to development.

NAME OF DECLARATION

Vienna Declaration

PLACE OF DECLARATION

Vienna, Austria

DATE OF DECLARATION

25 June 1993

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly
Economic and Social Council of the United Nations (ECOSOC)

Monitoring and implementation

Commission on Human Rights
Sub-Commission on the Promotion and Protection of Human Rights
High Commissioner for Human Rights

Periodicity of meetings

United Nations Commission on Human Rights meets each year in regular session in March/April for six weeks in Geneva.

Participation in meetings

Voting rights: The United Nations Commission on Human Rights, is composed of 53 States.

Observers: Observer States and observers from non-governmental organizations can participate.

Secretariat

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PLAN

Vienna Programme of Action

SUBSEQUENT UNGA RESOLUTIONS

Resolution 52/148 (adopted at the 52nd session of the General Assembly on 12 December 1997) on “Implementation and follow-up to the Vienna Declaration and Programme of Action ”

Resolution 53/166 (adopted at the 53rd session of the General Assembly on 9 December 1998) on “Vienna Declaration and Programme of Action”

ADDITIONAL INFORMATION

The final document agreed to in Vienna was endorsed by the 48th session of the United Nations General Assembly by resolution 48/121.

The conference took historic new steps to promote and protect the rights of women, children and indigenous peoples by, respectively, supporting the creation of a new mechanism, a Special Rapporteur on Violence against Women; calling for the universal ratification of the Convention on the Rights of the Child by the year 1995; and recommending the proclamation by the General Assembly of an international decade of the world’s indigenous peoples. Subsequently, the General Assembly carried out that recommendation. The Vienna Declaration also made concrete recommendations for strengthening and harmonizing the monitoring capacity of the United Nations system. In this regard, it called for the establishment of a High Commissioner for Human Rights by the General Assembly, which subsequently created the post on 20 December 1993 (resolution 48/141).

SELECTED PARAGRAPHS

2. Recognizing and affirming that all human rights derive from the dignity and

worth inherent in the human person, and that the human person is the central subject of human rights and fundamental freedoms, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms.

8. Emphasizing that the Universal Declaration of Human Rights, which constitutes a common standard of achievement for all peoples and all nations, is the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

9. Considering the major changes taking place on the international scene and the aspirations of all the peoples for an international order based on the principles enshrined in the Charter of the United Nations, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self determination of peoples, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity.

KEYWORDS

Human rights, rights, women, indigenous communities, culture

RELEVANCE TO FISHERIES/ FISHWORKERS

The Vienna Declaration on Human Rights is applicable to all peoples.

Vienna Programme of Action

ACRONYM

Vienna PoA

OBJECTIVES

To reaffirm the commitment of all States to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law (I. 1).

SELECTED PARAGRAPHS

I. 9. The World Conference on Human Rights reaffirms that least developed countries committed to the process of democratization and economic reforms, many of which are in Africa, should be supported by the international community in order to succeed in their transition to democracy and economic development.

I. 10. The World Conference on Human Rights reaffirms the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.

I. 11. The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. The World Conference on Human Rights recognizes that illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone.

Consequently, the World Conference on Human Rights calls on all States to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and waste and to cooperate in the prevention of illicit dumping....

I. 14. The existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights; its immediate alleviation and eventual elimination must remain a high priority for the international community.

I. 18. The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community. The World Conference on Human Rights recognizes the inherent dignity and the unique contribution of indigenous people to the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development.

I. 24. Great importance must be given to the promotion and protection of the human rights of persons belonging to groups which have been rendered vulnerable, including migrant workers, the elimination of all forms of discrimination against them, and the strengthening and more effective

implementation of existing human rights instruments. States have an obligation to create and maintain adequate measures at the national level, in particular in the fields of education, health and social support, for the promotion and protection of the rights of persons in vulnerable sectors of their populations and to ensure the participation of those among them who are interested in finding a solution to their own problems.

I. 33. The World Conference on Human Rights reaffirms that States are duty-bound, as stipulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and in other international human rights instruments, to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms. The World Conference on Human Rights emphasizes the importance of incorporating the subject of human rights education programmes and calls upon States to do so. Education should promote understanding, tolerance, peace and friendly relations between the nations and all racial or religious groups and encourage the development of United Nations activities in pursuance of these objectives. Therefore, education on human rights and the dissemination of proper information, both theoretical and practical, play an important role in the promotion and respect of human rights with regard to all individuals without distinction of any kind such as race, sex, language or religion, and this should be integrated in the education policies at the national as well as international levels. The World Conference on Human Rights notes that resource constraints and institutional

inadequacies may impede the immediate realization of these objectives.

The World Conference on Human Rights urges the full and equal enjoyment by women of all human rights and that this be a priority for Governments and for the United Nations. The World Conference on Human Rights also underlines the importance of the integration and full participation of women as both agents and beneficiaries in the development process, and reiterates the objectives established on global action for women towards sustainable and equitable development set forth in the Rio Declaration on Environment and Development and chapter 24 of Agenda 21, adopted by the United Nations Conference on Environment and Development (Rio de Janeiro, Brazil, 3-14 June 1992).

I. 37. Regional arrangements play a fundamental role in promoting and protecting human rights. They should reinforce universal human rights standards, as contained in international human rights instruments, and their protection. The World Conference on Human Rights endorses efforts under way to strengthen these arrangements and to increase their effectiveness, while at the same time stressing the importance of cooperation with the United Nations human rights activities.

The World Conference on Human Rights reiterates the need to consider the possibility of establishing regional and subregional arrangements for the promotion and protection of human rights where they do not already exist.

I. 38. The World Conference on Human Rights recognizes the important role of

non-governmental organizations in the promotion of all human rights and in humanitarian activities at national, regional and international levels. The World Conference on Human Rights appreciates their contribution to increasing public awareness of human rights issues, to the conduct of education, training and research in this field, and to the promotion and protection of all human rights and fundamental freedoms. While recognizing that the primary responsibility for standard-setting lies with States, the conference also appreciates the contribution of non-governmental organizations to this process. In this respect, the World Conference on Human Rights emphasizes the importance of continued dialogue and cooperation between Governments and non-governmental organizations. Non-governmental organizations and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of the national law.

These rights and freedoms may not be exercised contrary to the purposes and principles of the United Nations. Non-governmental organizations should be free to carry out their human rights activities, without interference, within the framework of national law and the Universal Declaration of Human Rights.

I. 39. Underlining the importance of objective, responsible and impartial information about human rights and humanitarian issues, the World Conference on Human Rights encourages the increased involvement of the media, for whom freedom and protection should be guaranteed within the framework of national law.

KEYWORDS

Human rights, women, violence, development, education, capacity building, equity, environment, poverty

RELEVANCE TO FISHERIES/ FISHWORKERS

The Vienna PoA reaffirms the commitment of all States to the protection of human rights.

World Summit for Social Development

SHORT TITLE

Copenhagen Summit

ACRONYM

WSSD

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To recognize the significance of social development and human well-being for all and to give to these goals the highest priority both now and into the twenty-first century.

The declaration also set forth ten commitments.

CONTENTS

29 paragraphs and ten commitments

DATE OF ADOPTION

12 March 1995

PLACE OF ADOPTION

New York, US at the 14th plenary meeting of the United Nations General Assembly

NAME OF DECLARATION

Copenhagen Declaration on Social Development

PLACE OF DECLARATION

Copenhagen, Denmark

DATE OF DECLARATION

19 April 1995

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Monitoring and implementation

- United Nations General Assembly
- ECOSOC
- Commission for Social Development (CSocD)
- Division for Social Policy and Development (DSPD) of the Department of Economic and Social Affairs (DESA)

Periodicity of meetings

Once in a year, in February

Participation in meetings

Commission on Social Development: Sessions of the Commission are open to non-governmental organizations (NGOs) in consultative status with ECOSOC. Only such NGOs are invited to attend sessions of the Commission. NGOs in general and special consultative status may submit written statements to be circulated. Representatives of accredited NGOs (in general and special consultative status) may also make oral presentations during the general debate at the Commission.

Secretariat

Commission for Social Development
Division for Social Policy and Development
Department of Economic and Social Affairs
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New York, NY 10017, USA
Tel: 1 212 963 5873

PLAN

Programme of Action

REGIONAL INSTRUMENTS

Manila Declaration on Accelerated Implementation of the Agenda for Action on Social Development in the Economic and Social Commission for Asia and the Pacific (ESCAP) Region.

SUBSEQUENT MEETINGS

World Summit for Social Development Plus Five in 2000.

RECENT UNGA RESOLUTIONS

Resolution 55/46 (adopted at the 55th session of the General Assembly on 29 November 2000) on “World Summit for Social Development outcome”

Resolution 57/163 (adopted at the 57th session of the General Assembly on 18 December 2002) on “Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly”

Resolution 58/130 (adopted at the 58th session of the General Assembly on 22 December 2003) on “Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly”

ADDITIONAL INFORMATION

The declaration and plan of action were endorsed by the 50th session of the United Nations General Assembly by Resolution 50/161 dated 22 December 1995.

Since the convening of the World Summit for Social Development in Copenhagen in 1995, the Commission has been the key UN body in charge of the follow-up and implementation of the Copenhagen Declaration and Programme of Action.

The Commission consists of 46 members elected by the Economic and Social Council for terms of office of four years on the following basis: 12 from African states; 10 from Asian states; 5 from Eastern European states; 9 from Latin American and Caribbean states; and 10 from Western European and Other states. In accordance with Council resolution 1139-IV (XLI), Member States nominate candidates who hold key positions in the planning or execution of national social development policies. Each year since 1995, the Commission has taken up key social development themes as part of its follow-up to the outcome of the Copenhagen Summit.

SELECTED PARAGRAPHS

6. We are deeply convinced that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people. Equitable social development that recognizes empowering the poor to utilize environmental resources sustainably is a necessary foundation for sustainable development. We also recognize that broad-based and sustained economic growth in the context of sustainable development is necessary to sustain social development and social justice.

8. We acknowledge that people are at the centre of our concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with the environment.

9. We gather here to commit ourselves, our Governments and our nations to enhancing social development throughout the world so that all men and women, especially those living in poverty, may exercise the rights, utilize the

resources and share the responsibilities that enable them to lead satisfying lives and to contribute to the well-being of their families, their communities and humankind. To support and promote these efforts must be the overriding goals of the international community, especially with respect to people suffering from poverty, unemployment and social exclusion.

KEYWORDS

Social development, development, rights, poverty, human rights, governance, participation, sustainable development, employment, economic development, environment

RELEVANCE TO FISHERIES/ FISHWORKERS

The Declaration recognizes that economic development, social development and environmental protection are interdependent and

mutually reinforcing. It asks that the poor be empowered to sustainably utilize environmental resources, which would include fisheries.

It recognizes that social development and social justice derive from sustainable development, which is at the centre of several initiatives in fisheries. It places people at the centre of the international community's concerns and asserts that they are entitled to a healthy and productive life in harmony with the environment. It pays special attention to those living in poverty, permits them to exercise rights, utilize resources so as to lead satisfying lives.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Declaration lays special emphasis on people suffering from poverty, unemployment and social exclusion, conditions typical of several small-scale fisheries.

Programme of Action of the World Summit for Social Development

SHORT TITLE

Copenhagen PoA

OBJECTIVES

To outline policies, actions and measures to implement the principles and fulfil the commitments enunciated in the Copenhagen Declaration on Social Development.

SELECTED PARAGRAPHS

B. Improved access to productive resources and infrastructure

31. The opportunities for income generation, diversification of activities and increase of productivity in low-income and poor communities should be enhanced by:

(g) Strengthening organizations of small farmers, landless tenants and labourers, other small producers, fisherfolk, community-based and workers' cooperatives, especially those run by women, in order to, *inter alia*, improve market access and increase productivity, provide inputs and technical advice, promote cooperation in production and marketing operations, and strengthen participation in the planning and implementation of rural development;

32. Rural poverty should be addressed by:

(d) Promoting opportunities for small farmers and other

agricultural, forestry and fishery workers on terms that respect sustainable development;

(f) Protecting, within the national context, the traditional rights to land and other resources of pastoralists, fishery workers and nomadic and indigenous people, and strengthening land management in the areas of pastoral or nomadic activity, building on traditional communal practices, controlling encroachment by others, and developing improved systems of range management and access to water, markets, credit, animal production, veterinary services, health including health services, education and information;

50. Promoting patterns of economic growth that maximize employment creation requires:

(f) Promoting mutually supportive improvements in rural farm and non-farm production, including animal husbandry, forestry, fisheries and agro-processing industries, aiming to expand and diversify environmentally sound, sustained economic activity and productive employment in the rural sector;

KEYWORDS

Social development, development, sustainable development, human rights, poverty, employment, natural resources management, traditional rights

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The PoA asks countries to protect the traditional rights of fishworkers in the national context, promote opportunities for fishworkers in line with sustainable development, and

enhance income generation by strengthening of small-scale fishworker organizations (Paragraphs 31, 32 and 50). Importantly, it also highlights the need to promote patterns of economic growth that maximize employment creation.

International Conference on the Sustainable Contribution of Fisheries to Food Security

SHORT TITLE

Kyoto Conference

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To recognize and appreciate the significant role which marine fisheries, inland fisheries and aquaculture play in providing food security for the world and to call for a precautionary approach to ensure sustainability in fisheries.

NAME OF DECLARATION

Kyoto Declaration

PLACE OF DECLARATION

Kyoto, Japan

DATE OF DECLARATION

4-9 December 1995

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)

Secretariat

FAO

Viale delle Terme di Caracalla

00100 Rome, Italy

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Website: www.fao.org/fi

PLAN

Kyoto Plan of Action

SELECTED PARAGRAPHS

1. Recognize and appreciate the significant role which marine fisheries, inland fisheries and aquaculture play in providing food security for the world, both through food supplies and through economic and social well-being;
2. Recognize and appreciate the important economic and social role of subsistence, artisanal and commercial fishers and other fishers throughout the world, and seek to provide an environment in which they can make an optimum contribution to economic and social welfare;
7. Undertake in-depth studies to assess the social, economic and cultural importance of fisheries and fishery products;
9. Base policies, strategies and resource management and utilization for sustainable development of the fisheries sector on the following: (i) maintenance of ecological systems; (ii) use of the best scientific evidence available; (iii) improvement in economic and social well-being; and (iv) inter and intra generational equity;
10. Apply the precautionary approach as referred to in the FAO Code of Conduct for Responsible Fisheries and the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks;
12. Conserve and sustainably use biological diversity and its

- components in the aquatic environment and, in particular, prevent practices leading to irreversible changes, such as extinction of genes and species, genetic erosion and/or large-scale destruction of habitats;
16. Increase the available supply of fish and fishery products for human consumption, nationally and internationally, through: (i) making optimum use of harvests and reducing post-harvest losses; (ii) developing, improving and sharing appropriate storage, processing and distribution technology; and (iii) developing and promoting effective systems ensuring the safety of food of aquatic origin, including harmonization of international regulations;
 17. Support enhancement of fisheries in coastal marine and inland waters, when and where appropriate, by: (i) assisting in stocking of resources and restocking of depleted resources through providing suitable organisms; (ii) assisting fishers to organize themselves; (iii) promoting the use of integrated community based and/or co-management schemes; and (iv) subject to national priorities, establishing access or user rights in waters exploited under open access regimes;
 18. Promote the use of sustainable and environmentally sound aquaculture and ranching in coastal marine and inland waters through, *inter alia*: (i) establishment of appropriate institutional and legal frameworks; (ii) coordination of the use of lands and waters with other activities; (iii) use of the best and most appropriate genetic material in conformity with the conservation and sustainable use of the environment and conservation of biological diversity; and (iv) application of social and environmental impact assessments;
20. Ensure that trade in fish and fishery products promotes food security, does not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish and fishery products are critical to their health and well-being, does not undermine applicable global, regional and subregional conservation and management measures and is conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement;

KEYWORDS

Employment, food security, trade, ecosystem approach, fishing capacity, fishery products, fishermen, fishing communities, fisheries development, precautionary approach

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/ FISHWORKERS

The Declaration calls for sustainable management of fisheries resources, based on the precautionary approach and on best scientific evidence available, for achieving food security. It specifically recognizes the important economic and social role of subsistence and artisanal fishers, and of marine and inland fisheries, and aquaculture in food security. It stresses that policies and resource management initiatives should specifically aim at improving economic and social well-being.

Further, it calls for supporting the enhancement of fisheries in coastal marine and inland waters, including by assisting fishers to organize themselves, by promoting the use of integrated community-based and/or co-

management schemes, and by establishing access or user rights in waters exploited under open-access regimes, subject to national priorities.

It also calls for the application of social and environmental impact assessments in promoting the use of sustainable and environmentally sound aquaculture and ranching in coastal marine and inland waters. It calls for in-depth studies to

assess the social, economic and cultural importance of fisheries and fishery products. It further stresses the need to ensure that trade in fish and fishery products promotes food security, and does not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish and fishery products are critical to their health and well-being.

Kyoto Plan of Action

ACRONYM

Kyoto PoA

OBJECTIVES

A set of plans that need to be undertaken immediately with respect to improving management of fisheries resources to achieve food security.

SELECTED PARAGRAPHS

1. To assess and monitor the present and future levels of global, regional and national production, supply and demand of fish and fishery products and their effects on food security, employment, consumption, income, trade and sustainability of production.
5. To develop, promote and facilitate the exchange of information on the use of efficient and standardized methodologies for the study of social, cultural and economic characteristics of fishing and associated activities; and, in particular, attempt to develop methods designed to permit verifiable indicators of the importance of such characteristics and their interaction and compatibility with management objectives.
8. To promote the exchange of information amongst research institutes and other relevant entities aiming to: (i) increase opportunities for the sustainable use of unexploited or underexploited species as human food; and (ii) promote and support research activities in order to

ensure improvement in scientific knowledge of existing fishery resources.

9. To strengthen coordination of national and international research programs aiming to simulate environmentally sound aquaculture and stocking, giving emphasis to the development of international guidelines for the development and management of activities in particular on: (i) the impacts on the environment and biodiversity; (ii) the application of biotechnology; and (iii) the health of cultured stocks.
10. To provide and coordinate technical and financial assistance programs for developing countries, in particular low-income food-deficit countries (LIFDCs) and small island developing States, and encourage cooperation between these countries, in order to achieve the contribution of fisheries to food security through, *inter alia*: (i) a rapid transfer of technology and know-how in enhancement in inland and marine waters; (ii) an upgrade and increase of the capabilities needed to minimize post-harvest losses; and (iii) ensuring improved control of fishing activities within areas under national jurisdiction.

KEYWORDS

Employment, food security, trade, ecosystem approach, fishing capacity, fishery products, fishermen, fishing communities, fisheries development, aquaculture

RELEVANCE TO FISHERIES

The PoA seeks to assess and monitor present and future levels of global, regional and national production, supply and demand of fish and fishery products, and their effects on food security, employment, consumption, income, trade and sustainability of

production. It calls for integrated assessments of fisheries in order to evaluate opportunities and strengthen the scientific basis for multispecies and ecosystem management, and for various measures to reduce excess fishing capacity.

World Food Summit

ACRONYM

WFS

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To pledge the political will and the common and national commitment of States to achieving food security for all and to an ongoing effort to eradicate hunger in all countries, with an immediate view to reducing the number of undernourished people to half their level no later than 2015;

Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The Rome Declaration sets forth seven commitments that lay the basis for achieving sustainable food security for all.

NAME OF DECLARATION

Rome Declaration on World Food Security

PLACE OF DECLARATION

Rome, Italy

DATE OF DECLARATION

13 November 1996

INITIATING BODY

Food and Agriculture Organization (FAO) of the United Nations

Secretariat

FAO

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Website: <http://www.fao.org/worldfoodsummit>

PLAN

World Food Summit Plan of Action

SUBSEQUENT MEETINGS

World Food Summit *Five Years Later*

SELECTED PARAGRAPHS

1. We, the Heads of State and Government, or our representatives, gathered at the World Food Summit at the invitation of the Food and Agriculture Organization of the United Nations, reaffirm the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.
2. We pledge our political will and our common and national commitment to achieving food security for all and to an ongoing effort to eradicate hunger in all countries, with an immediate view to reducing the number of undernourished people to half their present level no later than 2015.
8. We recognize the need to adopt policies conducive to investment in human resource development, research and infrastructure for

achieving food security. We must encourage generation of employment and incomes, and promote equitable access to productive and financial resources. We agree that trade is a key element in achieving food security. We agree to pursue food trade and overall trade policies that will encourage our producers and consumers to utilize available resources in an economically sound and sustainable manner. We recognize the importance for food security of sustainable agriculture, fisheries, forestry and rural development in low as well as high potential areas. We acknowledge the fundamental role of farmers, fishers, foresters, indigenous people and their communities, and all other people involved in the food sector, and of their organizations, supported by effective research and extension, in attaining food security.

9. Our sustainable development policies will promote full participation and empowerment of people, especially women, an equitable distribution of income, access to health care and education, and opportunities for youth. Particular attention should be given to those who cannot produce or procure enough food for an adequate diet, including those affected by war, civil strife, natural disaster or climate related ecological changes. We are conscious of the need for urgent action to combat pests, drought, and natural resource degradation including desertification, overfishing and erosion of biological diversity.
11. Convinced that the multifaceted character of food security

necessitates concerted national action, and effective international efforts to supplement and reinforce national action, we make the following commitments (*of the seven, four are given below*):

- we will pursue participatory and sustainable food, agriculture, fisheries, forestry and rural development policies and practices in high and low potential areas, which are essential to adequate and reliable food supplies at the household, national, regional and global levels, and combat pests, drought and desertification, considering the multifunctional character of agriculture;
- we will strive to ensure that food, agricultural trade and overall trade policies are conducive to fostering food security for all through a fair and market-oriented world trade system;
- we will promote optimal allocation and use of public and private investments to foster human resources, sustainable food, agriculture, fisheries and forestry systems, and rural development, in high and low potential areas;
- we will implement, monitor, and follow-up this Plan of Action at all levels in co-operation with the international community.

KEYWORDS

Food security, food, fisheries, gender, human rights, hunger, indigenous communities, overfishing, participation, policy, rights, rural development, sustainable development, sustainable use, trade

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The high visibility of the Summit raised awareness among decision-makers in the public and private sectors, in the media and with the public at large, and set the political, conceptual and technical blueprint for an ongoing effort to eradicate hunger in all countries, with the target of reducing by half the number of undernourished people by no later than the year 2015.

For the small-scale and artisanal fisheries sector, the WFS holds relevance, both because of the role the sector plays/can play in meeting nutritional and food security needs of large, particularly rural, populations, and because the sector is known for its high levels of poverty and food insecurity. The WFS declaration recognizes the importance of fisheries for food security, and acknowledges the fundamental role

of fishers, indigenous peoples and their communities in attaining food security.

To achieve the goals set, the WFS declaration calls for equitable access to productive and financial resources. It recognizes the need to revitalize rural areas and to remove poverty. It calls for increasing food production, within the framework of sustainable management of natural resources, and the elimination of unsustainable patterns of consumption and production, particularly in industrialized countries.

It calls for sustainable development policies that promote full participation and empowerment of people, especially women, an equitable distribution of income, access to healthcare and education, and opportunities for youth. It further commits to ensuring that trade policies are conducive to fostering food security for all through a fair and market-oriented world trade system.

World Food Summit Plan of Action

ACRONYM

WFS PoA

OBJECTIVES

Based on the seven commitments made by States to achieve the goal of food security, the POA lays down clear objectives under each commitment and action required to achieve each of these objectives

WORKING OF THE INSTRUMENT

Monitoring and implementation

The FAO Committee on World Food Security (CFS) is the focal point for the implementation of the WFS Plan of Action.

Periodicity of meetings

CFS meets twice in a biennium

Participation in meetings

Voting rights: Members of FAO must apply formally for membership. Membership for CFS must be renewed each biennium.

Observers: Non-governmental organizations are allowed as observers

ADDITIONAL INFORMATION

The Committee on World Food Security (CFS) serves as a forum in the United Nations System for review and follow-up of policies concerning world food security, including food production and physical and economic access to food. Its functions are enumerated in Rule XXXIII of the General Rules of the Organization.

SELECTED PARAGRAPHS

The seven commitments made by States, and the paragraphs that operationalize these commitments, are as follows:

Commitment one (paras 13 to 17): We will ensure an enabling political, social, and economic environment designed to create the best conditions for the eradication of poverty and for durable peace, based on full and equal participation of women and men, which is most conducive to achieving sustainable food security for all.

Commitment two (paras 18 to 22): We will implement policies aimed at eradicating poverty and inequality and improving physical and economic access by all, at all times, to sufficient, nutritionally adequate and safe food and its effective utilization.

Commitment three (paras 23 to 36): We will pursue participatory and sustainable food, agriculture, fisheries, forestry and rural development policies and practices in high and low potential areas, which are essential to adequate and reliable food supplies at the household, national, regional and global levels, and combat pests, drought and desertification, considering the multifunctional character of agriculture.

Commitment four (paras 37 to 41): We will strive to ensure that food, agricultural trade and overall trade policies are conducive to fostering food security for all through a fair and market-oriented world trade system.

Commitment five (paras 42 to 47): We will endeavour to prevent and be prepared for natural disasters and man-made emergencies and to meet transitory and emergency food requirements in ways that encourage recovery, rehabilitation, development and a capacity to satisfy future needs.

Commitment six (paras 48 to 53): We will promote optimal allocation and use of public and private investments to foster human resources, sustainable food, agriculture, fisheries and forestry systems, and rural development, in high and low potential areas.

Commitment seven (paras 54 to 62): We will implement, monitor, and follow-up this Plan of Action at all levels in cooperation with the international community.

Objective 3.5 (para 36 under Commitment three):

To formulate and implement integrated rural development strategies, in low and high potential areas, that promote rural employment, skill formation, infrastructure, institutions and services, in support of rural development and household food security and that reinforce the local productive capacity of farmers, fishers and foresters and others actively involved in the food sector, including members of vulnerable and disadvantaged groups, women and indigenous people, and their representative organizations, and that ensure their effective participation.

To this end, governments, in partnership with all actors of civil society, and with the support of international institutions, will, as appropriate:

(a) Include in their national social and economic development policies, plans and programmes, actions that will foster the social and economic revitalization of the rural sector, with particular regard to the promotion of investment and employment that will make good use of the rural workforce and to the promotion of political, economic and administrative decentralization;

- (b) Strengthen local government institutions in rural areas and provide them with adequate resources, decision-making authority and mechanisms for grassroots participation;
- (c) Encourage and enable farmers, fishers and foresters and other food producers and providers as well as their organizations, particularly small farmers and artisanal fisherfolk, by strengthening institutional structures to define their responsibilities and protect their rights and those of the consumer;
- (d) Promote the development and diversification of rural markets, reduce post-harvest losses and ensure safe storage, food processing and distribution facilities and transportation systems;
- (e) Reinforce the follow-up to the World Conference on Agrarian Reform and Rural Development (WCARRD), 1979;
- (f) Develop and encourage training programmes in sustainable natural resources management.

Governments, in co-operation with the private sector and non-governmental organizations, will:

- (g) Develop the technical and educational infrastructure in rural areas;
- (h) Promote the development of rural banking, credit and savings schemes, where appropriate, including equal access to credit for men and women, micro-credit for the poor, as well as adequate insurance mechanisms;
- (i) Promote food production, processing and marketing systems which increase opportunities for stable, gainful and equal and equitable employment conditions in the food

- and rural sectors; where appropriate, promote off-farm activities in rural areas combining agriculture, fisheries and forestry production with processing and marketing activities, cottage industries and tourism, particularly in marginal areas and peri-urban areas;
- (j) Foster the social and economic organization of the rural population with particular emphasis on the development of small-scale farmers', fishers', and foresters' cooperatives, community organizations and development associations, so that rural inhabitants may be actively involved in decision-making, monitoring and evaluation of rural development programmes;
- (k) Recognize farmers', fishers', foresters', rural workers' and consumers' organizations at local, national, regional and international levels and promote a regular dialogue and partnership with their respective governments and their linkage with all appropriate institutions and sectors on sustainable agriculture, fisheries and forestry and sustainable management of natural resources;
- (l) Promote the empowerment of small-scale family farmers, fishers and foresters, both women and men, to set up their own co-operatives and business undertakings, as well as farmers' and fishers' financial and mutual institutions;
- (m) Enhance cooperation and exchange among farmers, fishers, foresters and their representative organizations, both within and between developing countries, industrialized countries and economies in transition.

Governments, in collaboration with the international community, will:

- (n) Develop international South-South technical cooperation programmes that will facilitate the implementation of nutritional programmes that have proved successful in other developing countries;
- (o) Implement the outcomes of UNCED, particularly as regards Chapter 14 of Agenda 21.

KEYWORDS

Agreement, aquaculture, biodiversity, capacity building, CFS, coastal areas, fish trade, food security, food, indigenous communities, health, local communities, marine ecosystems, policy, poverty, producer organizations, sustainable development

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The PoA calls for integrated rural development strategies that reinforce the local productive capacity of fishers. It calls for enhancing production for food security, within the framework of holistic and sustainable management of natural resources and in ways that increase opportunities for stable, gainful, equal and equitable employment conditions.

The PoA also stresses the need to develop environmentally sound and sustainable aquaculture, well integrated into rural, agricultural and coastal development. For fishworkers in many regions, faced with the impact of environmentally and socially unsound forms of aquaculture, this is important. Several other actions suggested in the PoA, such as the need to recognize and dialogue with fishworker organizations for sustainable management of natural resources, and the need to develop small-scale fishers' co-operatives, are also of relevance.

World Food Summit: *five years later*

ACRONYM

WFS fyl

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

CONTENTS

35 paragraphs

NAME OF DECLARATION

World Food Summit: *five years later*

PLACE OF DECLARATION

Rome, Italy

DATE OF DECLARATION

10-13 June 2002

INITIATING BODY

Food and Agriculture Organization (FAO)
of the United Nations

WORKING OF THE INSTRUMENT

Monitoring and implementation

FAO's Committee on World Food
Security (CFS)

Periodicity of meetings

The committee meets for two sessions
during each biennium

Secretariat

Secretary of CFS

FAO

Viale delle Terme di Caracalla

00100 Rome, Italy

Tel: 39 06 5705 2847

Fax: 39 06 5705 3152

Website: <http://www.fao.org/worldfoodsummit>

GUIDELINES

Voluntary guidelines on the right to food
were brought out in 2004

SELECTED PARAGRAPHS

1. We renew our global commitments made in the Rome Declaration at the World Food Summit in 1996 in particular to halve the number of hungry in the world no later than 2015, as reaffirmed in the United Nations Millennium Declaration. We resolve to accelerate the implementation of the WFS Plan of Action.
10. We invite the FAO Council to establish at its One Hundred and Twentythird Session an Intergovernmental Working Group, with the participation of stakeholders, in the context of the WFS follow-up, to elaborate, in a period of two years, a set of voluntary guidelines to support Member States' efforts to achieve the progressive realization of the right to adequate food in the context of national food security; we ask the FAO, in close collaboration with relevant treaty bodies, agencies and programmes of the UN System, to assist the Intergovernmental Working Group, which shall report on its work to the Committee on World Food Security.
13. We reaffirm the need to assure gender equality and to support empowerment of women. We recognize and value the continuing and vital role of women in agriculture, nutrition and food security and the need to integrate a gender perspective in all aspects of food security; and we recognize the

need to adopt measures to ensure that the work of rural women is recognized and valued in order to enhance their economic security, and their access to and control over resources and credit schemes, services and benefits.

21. We stress the need to further promote sustainable forest and fisheries management, including sustainable use and conservation of aquatic living resources, in view of the contribution of those sectors to food security and poverty eradication.

KEYWORDS

Food security, gender, poverty, natural resources, resources management, fisheries, development, human rights, food, hunger, social development, sustainable use

RELEVANCE TO FISHERIES/ SMALL-SCALE FISHERIES/FISHWORKERS

The declaration recognizes the role of fisheries in food security. It calls for sustainable forest and fisheries management, including sustainable use and conservation of aquatic living resources, given the contribution of these sectors to food security and poverty eradication.

States agreed to set up an Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, notably with the participation of stakeholders. This has provided the opportunity to fishworker groups and organizations to enter into a dialogue with governments on policies and programmes that should be pursued in the fisheries sector for poverty alleviation and food security.

Convention on the Elimination of All Forms of Discrimination against Women

ACRONYM

CEDAW

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life — including the right to vote and to stand for election — as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

DATE OF ADOPTION

18 December 1979

PLACE OF ADOPTION

New York, US at the 34th session of the United Nations General Assembly by Resolution 34/180

OPENED FOR SIGNATURE

18 December 1979

DATE OF ENTRY INTO FORCE

3 September 1981

SIGNATORIES

98

RATIFICATIONS

179 States parties (as on 6 October 2004)

CONTENTS

Preamble and 30 articles

ADDITIONAL INSTRUMENTS

Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

Meeting of Parties

Monitoring and implementation

Committee on the Elimination of Discrimination against Women (CEDAW)

Periodicity of meeting

Meeting of Parties

The meeting of States parties is convened every other year by the Secretary-General at UN Headquarters in New York.

CEDAW

Meets twice annually

Participation in meetings

CEDAW

The 23 members of CEDAW, acknowledged as experts “of high moral standing and competence in the field covered by the Convention”, are elected by the States parties.

Voting rights: Each member has one vote

Observers: Rules 45 to 47 of the Rules of procedure of the Committee on the Elimination of Discrimination against Women, relate to participation of observers, including participation of

specialized agencies, and of representatives of intergovernmental organizations and United Nations bodies.

With reference to non-governmental organizations, Rule 47 states that: "Representatives of non-governmental organizations may be invited by the Committee to make oral or written statements and to provide information or documentation relevant to the Committee's activities under the Convention to meetings of the Committee or to its pre-sessional working group."

Non-governmental organizations are invited to participate in pre-sessional working groups and also submit country specific reports in writing, in advance to the relevant session or working group.

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RECENT UNGA RESOLUTIONS

Resolution 55/70 (adopted at the 55th session of the General Assembly on 4 December 2000) on the "Convention on the Elimination of All Forms of Discrimination against Women"

Resolution 56/229 (adopted at the 56th session of the General Assembly on 24 December 2001) on the "Convention on the Elimination of All Forms of Discrimination against Women"

Resolution 57/178 (adopted at the 57th session of the General Assembly on 18 December 2002) on the "Convention on the Elimination of All Forms of Discrimination against Women"

Resolution 58/145 (adopted at the 58th session of the General Assembly on 22 December 2003) on "Convention on the Elimination of All Forms of Discrimination against Women"

ADDITIONAL INFORMATION

The Convention is often described as an international bill of rights for women. The Convention is the only human rights treaty that affirms the reproductive rights of women, and targets culture and tradition as influential forces shaping gender roles and family relations.

SELECTED ARTICLES

Article I

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other

- appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
 - (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
 - (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
 - (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
 - (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
 - (g) To repeal all national penal provisions which constitute discrimination against women.
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the

- establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

KEYWORDS

Human rights, women, discrimination, education, finance, credit, health, safety at work, occupational health, social security, rights, rural areas

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

As a general instrument for protecting women's rights, especially against discrimination at home or in the workplace, it would apply to women of fishing communities and those engaged in fisheries-related activities like fish processing and marketing.

The Convention asks Parties to take into account the particular problems faced by rural women and the significant roles they play in the economic survival of their families, including their work in the non-monetized sectors of the economy. It asks Parties to ensure that, among other things, the rights of rural women to participate in decision-making processes, to enjoy adequate living conditions, to benefit from social security and to access loans and credit, are secured. Recognition of these, rights for the most part unrecognized, are crucial to improve the well-being of women fishworkers and their communities. It also asks Parties to ensure equal treatment as land and agrarian reforms.

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

ACRONYM

CEDAW-OP

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Protocol

OBJECTIVES

Empowers the Committee on the Elimination of Discrimination against Women to consider communications submitted by individuals or groups of individuals on violations of the Convention in States parties to the Convention and the Optional Protocol. The Optional Protocol also entitles the Committee of its own motion to inquire into grave or systematic violations of the Convention in those States parties which have accepted this procedure.

CONTENTS

21 Articles

The Protocol contains two procedures: (1) A communications procedure allows individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee. The Protocol establishes that in order for individual communications to be admitted for consideration by the Committee, a number of criteria must be met, including those domestic remedies must have been exhausted. (2) The Protocol also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's

rights. In either case, States must be party to the Convention and the Protocol. The Protocol includes an "opt-out clause", allowing States upon ratification or accession to declare that they do not accept the inquiry procedure. Article 17 of the Protocol explicitly provides that no reservations may be entered to its terms.

DATE OF ADOPTION

6 October 1999

PLACE OF ADOPTION

New York, US at the 54th session of the United Nations General Assembly by resolution 54/4

OPENED FOR SIGNATURE

10 December 1999

DATE OF ENTRY INTO FORCE

22 December 2000

SIGNATORIES

76 (as of 24 November 2004)

RATIFICATIONS

71 (as of 7 January 2005)

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

Meeting of the States Parties

Monitoring and implementation

The Committee on the Elimination of Discrimination against Women that meets twice annually has been mandated to hold meetings to exercise its functions under the Protocol.

Periodicity of meetings

As in CEDAW

Participation in meetings

As in CEDAW

Secretariat

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ADDITIONAL INFORMATION

The entry into force of the Optional Protocol puts it on an equal footing with the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, all of which have communications procedures. The inquiry procedure is the equivalent of that under the Convention against Torture.

SELECTED ARTICLES

Article 1

A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Elimination of Discrimination against Women ("the Committee") to receive and consider communications submitted in accordance with article 2.

Article 2

Communications may be submitted by or on behalf of individuals or groups of

individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 3

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 4

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.

Article 8

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

Article 11

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

KEYWORDS

Human rights, women, discrimination, CEDAW

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The Optional Protocol, by allowing the communication of violations of women's

rights protected by the Convention, to the Committee for action, provides the basis for better implementation of the Convention. In view of its relevance for protecting the rights of individuals or groups, including fishworkers and women of fishing communities, the Optional Protocol can be considered to be of crucial importance.

Fourth World Conference on Women

SHORT TITLE

Beijing Conference

ACRONYM

FWCW

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To advance the goals of equality, development and peace for all women everywhere in the interest of all humanity

NAME OF DECLARATION

Beijing Declaration

PLACE OF DECLARATION

Beijing, China

DATE OF DECLARATION

15 September 1995

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Monitoring and implementation

Commission on the Status of Women (CSW)

Periodicity of meetings

CSW meets annually for ten days

Participation in meetings

Voting rights: United Nations member countries, Associate members of regional economic commissions and UN Specialized Agencies

Observers: NGOs who were accredited to the Fourth World Conference on Women and NGOs in consultative status with the Economic and Social Council (ECOSOC) can participate as observers.

Secretariat

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PLAN

Beijing Platform of Action

REGIONAL INSTRUMENTS

Regional declarations from the regional conferences on women: Addis Ababa, Ethiopia, Africa; Hanoi, Vietnam, Asia

SUBSEQUENT MEETINGS

Beijing +5, Women 2000: Gender Equality, Development and Peace for the 21st Century, New York.

RECENT UNGA RESOLUTIONS

Resolution 55/71 (adopted at the 55th session of the General Assembly on 4 December 2000) on "Follow-up to 4th World Conference on Women and the outcome of the 23rd special session of the General Assembly"

Resolution 56/132 (adopted at the 56th session of the General Assembly on 19 December 2001) on "Follow-up to the 4th World Conference on Women and full

implementation of the Beijing Declaration and Platform for Action and the outcome of the 23rd special session of the General Assembly”

Resolution 57/182 (adopted at the 57th session of the General Assembly on 18 December 2002) on “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”

Resolution 58/148 (adopted at the 58th session of the General Assembly on 22 December 2003) on “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”

ADDITIONAL INFORMATION

The Commission on the Status of Women (CSW) was established as a functional commission of the Economic and Social Council by Council resolution 11(II) of 21 June 1946 to prepare recommendations and reports to the Council on promoting women’s rights in political, economic, civil, social and educational fields. The Commission also makes recommendations to the Council on urgent problems requiring immediate attention in the field of women’s rights. The object of the Commission is to promote implementation of the principle that men and women shall have equal rights. Following the 1995 Fourth World Conference on Women, the General Assembly mandated the Commission to integrate into its programme a follow-up process to the Conference, regularly reviewing the critical areas of concern in the Platform for Action and to develop its catalytic role in mainstreaming a gender perspective in United Nations’ activities.

SELECTED PARAGRAPHS

13. Women’s empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace;
14. Women’s rights are human rights;
15. Equal rights, opportunities and access to resources, equal sharing of responsibilities for the family by men and women, and a harmonious partnership between them are critical to their well-being and that of their families as well as to the consolidation of democracy;
16. Eradication of poverty based on sustained economic growth, social development, environmental protection and social justice requires the involvement of women in economic and social development, equal opportunities and the full and equal participation of women and men as agents and beneficiaries of people-centred sustainable development;
26. Promote women’s economic independence, including employment, and eradicate the persistent and increasing burden of poverty on women by addressing the structural causes of poverty through changes in economic structures, ensuring equal access for all women, including those in rural areas, as vital development agents, to productive resources, opportunities and public services;
27. Promote people-centred sustainable development, including sustained economic growth, through the provision of basic education, life-long education, literacy and training, and

primary health care for girls and women;

35. Ensure women's equal access to economic resources, including land, credit, science and technology, vocational training, information, communication and markets, as a means to further the advancement and empowerment of women and girls, including through the enhancement of their capacities to enjoy the benefits of equal access to these resources, *inter alia*, by means of international cooperation.

KEYWORDS

Women, rights, equality, human rights, gender, development, capacity building, access, poverty, peace

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

Through the Declaration, States have committed to ensuring that a gender perspective is reflected in all their policies and programmes. Significantly, there is a clear recognition that social development

that recognizes empowering the poor, particularly women living in poverty, to utilize environmental resources sustainably, is a necessary foundation for sustainable development. It is also noteworthy that the need to address the structural causes of poverty and for equal sharing of family responsibilities, typically seen as women's work linked to the non-monetized economy, is also emphasized.

In the Declaration, States have called for women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process, and for equal rights, opportunities and access to resources, including land, credit, science and technology, vocational training, information, communication and markets. A translation of these commitments into concrete policies and programme could undoubtedly have significant positive economic, social, political and cultural repercussions for all women, including women fishworkers and their communities, particularly in rural areas.

Beijing Platform for Action

ACRONYM

PoA

OBJECTIVES

The Platform for Action is an agenda for women's empowerment agreed to at the Beijing Conference. It aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and at removing all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making. As an agenda for action, the Platform seeks to promote and protect the full enjoyment of all human rights and the fundamental freedoms of all women throughout their life cycle. The Platform for Action aims at establishing a basic group of priority actions for implementation over the five-year period following the Beijing Conference

CONTENTS

361 paragraphs

WORKING OF THE INSTRUMENT

Monitoring and implementation

- United Nations General Assembly
- Economic and Social Council (ECOSOC)
- Commission on the Status of Women (CSW)

- Division for the Advance of Women (DAW)
- Committee for Elimination of All Forms of Disrimination Against Women (CEDAW)

Periodicity of meetings

General Assembly of the United Nations: meets once a year

Economic and Social Council (ECOSOC): meets once a year

Commission on the Status of Women (CSW): meets annually for ten days

Participation in meetings

CSW: The Commission, which began with 15 members, now consists of 45 members elected by the Economic and Social Council for a period of four years. Members, who are appointed by Governments, are elected on the following basis: thirteen from African states; eleven from Asian states; four from Eastern European states; nine from Latin American and Caribbean states; and eight from Western European and Other states. The Commission meets annually for a period of ten working days.

NGO participation: Non- governmental organizations (NGOs) which are accredited to, and in good standing with, the Economic and Social Council are eligible to designate representatives to attend the session. NGOs are also permitted to provide input into the session by presenting oral interventions.

Secretariat

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SELECTED PARAGRAPHS

34. The continuing environmental degradation that affects all human lives has often a more direct impact on women. Women's health and their livelihood are threatened by pollution and toxic wastes, large-scale deforestation, desertification, drought and depletion of the soil and of coastal and marine resources, with a rising incidence of environmentally related health problems and even death reported among women and girls. Those most affected are rural and indigenous women, whose livelihood and daily subsistence depends directly on sustainable ecosystems.
35. Poverty and environmental degradation are closely interrelated. While poverty results in certain kinds of environmental stress, the major cause of the continued deterioration of the global environment is the unsustainable patterns of consumption and production, particularly in industrialized countries, which are a matter of grave concern and aggravate poverty and imbalances.
41. To this end, Governments, the international community and civil society, including non-governmental organizations and the private sector, are called upon to take strategic action in the following critical areas of concern:
- The persistent and increasing burden of poverty on women
 - Inequalities and inadequacies in and unequal access to education and training
 - Inequalities and inadequacies in and unequal access to health care and related services
 - Violence against women
 - The effects of armed or other kinds of conflict on women, including those living under foreign occupation
 - Inequality in economic structures and policies, in all forms of productive activities and in access to resources
 - Inequality between men and women in the sharing of power and decision-making at all levels
 - Insufficient mechanisms at all levels to promote the advancement of women
 - Lack of respect for and inadequate promotion and protection of the human rights of women
 - Stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media
 - Gender inequalities in the management of natural resources and in the safeguarding of the environment.
 - Persistent discrimination against and violation of the rights of the girl child

47. More than 1 billion people in the world today, the great majority of whom are women, live in unacceptable conditions of poverty, mostly in the developing countries. Poverty has various causes, including structural ones. Poverty is a complex, multidimensional problem, with origins in both the national and international domains. The globalization of the world's economy and the deepening interdependence among nations present challenges and opportunities for sustained economic growth and development, as well as risks and uncertainties for the future of the world economy. The uncertain global economic climate has been accompanied by economic restructuring as well as, in a certain number of countries, persistent, unmanageable levels of external debt and structural adjustment programmes. In addition, all types of conflict, displacement of people and environmental degradation have undermined the capacity of Governments to meet the basic needs of their populations. Transformations in the world economy are profoundly changing the parameters of social development in all countries. One significant trend has been the increased poverty of women, the extent of which varies from region to region.

The gender disparities in economic power-sharing are also an important contributing factor to the poverty of women. Migration and consequent changes in family structures have placed additional burdens on women, especially those who provide for several

dependants. Macroeconomic policies need rethinking and reformulation to address such trends. These policies focus almost exclusively on the formal sector. They also tend to impede the initiatives of women and fail to consider the differential impact on women and men. The application of gender analysis to a wide range of policies and programmes is therefore critical to poverty reduction strategies. In order to eradicate poverty and achieve sustainable development, women and men must participate fully and equally in the formulation of macroeconomic and social policies and strategies for the eradication of poverty. The eradication of poverty cannot be accomplished through anti-poverty programmes alone but will require democratic participation and changes in economic structures in order to ensure access for all women to resources, opportunities and public services. Poverty has various manifestations, including lack of income and productive resources sufficient to ensure a sustainable livelihood; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increasing morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion. It is also characterized by lack of participation in decision-making and in civil, social and cultural life. It occurs in all countries—as mass poverty in many developing countries and as pockets of poverty amidst wealth in developed countries. Poverty may be caused

by an economic recession that results in loss of livelihood or by disaster or conflict. There is also the poverty of low-wage workers and the utter destitution of people who fall outside family support systems, social institutions and safety nets.

56. Sustainable development and economic growth that is both sustained and sustainable are possible only through improving the economic, social, political, legal and cultural status of women. Equitable social development that recognizes empowering the poor, particularly women, to utilize environmental resources sustainably is a necessary foundation for sustainable development.

Strategic objective A.1. Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty

Strategic objective B.3. Improve women's access to vocational training, science and technology, and continuing education

Strategic objective F.1. Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources

Strategic objective F.2. Facilitate women's equal access to resources, employment, markets and trade

Strategic objective K.1. Involve women actively in environmental decision-making at all levels

Strategic objective K.2. Integrate gender concerns and perspectives in policies and programmes for sustainable development

Strategic objective K.3. Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women

KEYWORDS

Women, indigenous communities, participation, human rights, access, trade, natural resources, environment, empowerment, capacity building, decision making, education, health, economy, market, rights, land, information, communication, poverty, employment, policy, law, credit

RELEVANCE TO FISHERIES/ SMALL-SCALE FISHERIES/FISHWORKERS

The PoA has several references to women in rural communities, including fishing communities. The PoA identifies twelve critical areas of concern, which are: women and poverty; education and training of women; women and health; violence against women; women and armed conflict; women and the economy; women in power and decision-making; institutional mechanisms for the advancement of women; human rights of women; women and the media; women and the environment; and the girl child. Several aspects of the agenda for action proposed, as discussed below, are highly relevant for women fishworkers and their communities.

The PoA analyzes the situation of women, the structural dimensions of poverty, and the reasons for the marginalization of women. It points to the increasing evidence on feminization

of poverty. It acknowledges that full participation of women on the basis of equality in all spheres of society, has yet to be achieved. It draws attention to the increasing fragility of the environment, continued violence against women, and the widespread exclusion of half of humanity from institutions of power and governance, and underscores the need to continue the search for development, peace and security and for ways of assuring people-centred sustainable development. The PoA stresses the social dimension of development; acknowledging that economic growth by itself may not have positive social consequences. It points to the need to ensure that all members of society benefit from economic growth.

Further, it recognizes how women's health and livelihood are threatened by the environmental degradation of coastal and marine resources, especially in the case of rural and indigenous women, whose livelihood and daily subsistence depends directly on sustainable ecosystems. It

recognizes that empowering women to utilize environmental resources sustainably is crucial for equitable social development.

It asks governments to develop the agricultural and fishing sectors for food security and food self-sufficiency, and to develop programmes that enhance the access of women fisheries producers to financial, technical, extension and marketing services. It stresses the need to protect women's right to full and equal access to economic resources, including natural resources, and highlights the importance of increased training in technical, managerial, agricultural extension and marketing areas for women in agriculture and fisheries, particularly in developing countries. It proposes that women fishers be imparted knowledge and skills in resource management and conservation of biological diversity. It further highlights the need for research on the role, particularly of rural and indigenous women, in food gathering and production, and coastal zone and marine resource management.

Women 2000: Gender Equality, Development and Peace for the 21st Century, “Beijing+5”

SHORT TITLE

Beijing +5

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

Reaffirms the commitment of States to the goals and objectives contained in the Beijing Declaration and Platform for Action adopted in 1995 at the Fourth World Conference on Women, and the Nairobi Forward-looking Strategies for the Advancement of Women, and their commitment to undertaking further action to ensure their full and accelerated implementation, by considering future actions and initiatives for the year 2000 and beyond.

CONTENTS

10 Paragraphs

NAME OF DECLARATION

S-23/2 Political Declaration

PLACE OF DECLARATION

New York, US at the 23rd Special Session of the United Nations General Assembly

DATE OF DECLARATION

10 June 2000

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Monitoring and implementation

United Nations General Assembly
Committee on the Status of Women (CSW)
Division for the Advance of Women (DAW)

Periodicity of meetings

CSW meets annually for ten days

Participation in meetings

CSW

Voting rights: United Nations member countries, Associate members of regional economic commissions and UN Specialized Agencies

Observers: NGOs who were accredited to the Fourth World Conference on Women and NGOs in consultative status with the Economic and Social Council (ECOSOC) can participate as observers.

Secretariat

Division for the Advancement of Women (DAW)

Commission on the Status of Women (CSW)

2 UN Plaza, DC2-12th Floor

New York, NY, 10017

USA

Fax: 1 212 963 3463

Email: daw@un.org

Website: <http://www.un.org/womenwatch/daw>

PLAN

Further actions and initiatives to implement the Beijing Declaration and Platform for Action (Outcome Document)

RECENT UNGA RESOLUTIONS

As in the Fourth World Conference on Women (Beijing Conference)

ADDITIONAL INFORMATION

Resolution S-23/3 was adopted by the 23rd special session of the United Nations General Assembly from 5-9 June 2000, on "Women: 2000: Gender Equality, Development and Peace for the Twenty-First Century".

SELECTED PARAGRAPHS

4. *Welcome* the progress made thus far towards gender equality and the implementation of the Beijing Platform for Action and reaffirm our commitment to accelerate the achievement of universal ratification of the Convention on the Elimination of All Forms of Discrimination against Women and in this regard acknowledge the efforts at all levels of Governments, the United Nations system, and intergovernmental, other international and regional organizations and urge continued efforts for the full implementation of the Beijing Platform for Action;
8. *Reaffirm* our commitment to overcoming obstacles encountered in the implementation of the Beijing Platform for Action and the Nairobi Forward-looking Strategies for the Advancement of Women and to strengthening and safeguarding a national and international enabling environment, and to this end pledge to undertake further action to ensure their full and accelerated implementation, *inter alia*, through the promotion and protection of all

human rights and fundamental freedoms, mainstreaming a gender perspective into all policies and programmes and promoting full participation and empowerment of women and enhanced international cooperation for the full implementation of the Beijing Platform for Action;

9. *Agree* to assess regularly further implementation of the Beijing Platform for Action with a view to bringing together all parties involved in 2005 to assess progress and consider new initiatives, as appropriate, ten years after the adoption of the Beijing Platform for Action and twenty years after the adoption of the Nairobi Forward-looking Strategies for the Advancement of Women;

KEYWORDS

Gender, participation, human rights, women, equality, empowerment, cooperation, implementation, Beijing declaration

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

For women fishworkers, whose struggle to gain access to resources, and to their rightful place in decision-making processes and in society, is far from over, the commitment by States to overcome the obstacles to, and ensure the full and accelerated implementation of, the Nairobi Forward-looking Strategies Action and the Beijing Declaration and Platform of Action, is positive. States also agreed to assess the progress they make in the implementation of the Beijing PoA.

Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action

SHORT TITLE

Outcome Document

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

Assesses the achievements and obstacles in relation to the commitments made in the Beijing Platform for Action and its twelve critical areas of concern, and proposes specific actions to be taken to facilitate the full and speedy implementation of the Beijing POA

CONTENTS

104 paragraphs under 4 major sections

WORKING OF THE INSTRUMENT

Monitoring and implementation

- United Nations General Assembly
- Committee on the Status of Women (CSW)
- Division for the Advance of Women (DAW)

SELECTED PARAGRAPHS

IV. Actions and initiatives to overcome obstacles and to achieve the full and accelerated implementation of the Beijing Platform for Action

A. Actions to be taken at the national level

By Governments:

71. (a) Consider adopting, where appropriate, national legislation consistent with the Convention on Biological Diversity to protect the knowledge, innovations and practices of women in indigenous and local communities relating to traditional medicines, biodiversity and indigenous technologies;
- (b) Adapt environmental and agricultural policies and mechanisms, when necessary, to incorporate a gender perspective, and in cooperation with civil society, support farmers, particularly women farmers and those living in rural areas, with education and training programmes.
74. (a) Undertake socioeconomic policies that promote sustainable development and support and ensure poverty eradication programmes, especially for women, by, *inter alia*, providing skills training, equal access to and control over resources, finance, credit, including microcredit, information and technology, and equal access to markets to benefit women of all ages, in particular those living in poverty and marginalized women, including rural women, indigenous women and female-headed households;
- D. Actions to be taken at the national and international levels by

Governments, regional and international organizations, including the United Nations system, and international financial institutions and other actors, as appropriate:

94. (b) Respect, promote and realize the principles contained in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up,¹⁴ and strongly consider ratification and full implementation of International Labour Organization conventions which are particularly relevant to ensuring women's rights at work;
- (c) Encourage the strengthening of existing and emerging microcredit institutions and their capacity, including through the support of international financial institutions, so that credit and related services for self-employment and income-generating activities may be made available to an increasing number of people living in poverty, in particular women, and to further develop, where appropriate, other microfinance instruments;
- (d) Reaffirm commitment to gender-sensitive development and support women's role in sustainable and ecologically sound consumption and production patterns and approaches to natural resource management;
- (e) Adopt measures to ensure that the work of rural women, who continue to play a vital role in providing food security and nutrition and are engaged in agricultural production and enterprises related to farming, fishing and resource management and home-based work, especially

in the informal sector, is recognized and valued in order to enhance their economic security, their access to and control over resources and credit schemes, services and benefits, and their empowerment.

KEYWORDS

Access, Beijing POA, capacity building, CBD, credit, decision making, discrimination, education, employment, empowerment, environment, gender, health, globalization, human rights, ILO, indigenous communities, , rights, stakeholders, traditional knowledge, training, women

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The document recognizes the link between gender equality, poverty eradication, sustainable development and environment protection. It recognizes the vital role played by rural women, including those in fisheries, in providing food security and nutrition, and calls for better valuation of this work as well as of home-based work, especially in the informal sector, in order to enhance their economic security, their access to, and control over, resources and credit schemes, services and benefits, and their empowerment.

It also recognizes gender dimensions of poverty and the need to promote employment and income-generating activities for women as well as access to basic social services, including education and healthcare. It stresses the role of micro-credit and other financial instruments for women. It also calls for technological and financial support for women's entrepreneurship.

United Nations Millennium Declaration

SHORT TITLE

Millennium Declaration

RESOLUTION NUMBER

UNGA 55/2

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Resolution

OBJECTIVES

To commit to creating an environment conducive to development and for the elimination of poverty, and agree to key common targets for achieving these goals.

DATE OF ADOPTION

8 September 2000

PLACE OF ADOPTION

New York, US Adopted at the 8th plenary of the 55th session of the United Nations General Assembly

ADDITIONAL INSTRUMENTS

Millennium Development Goals

INITIATING BODY

United Nations General Assembly

WORKING OF THE INSTRUMENT

Decision-making body

United Nations General Assembly

Periodicity of meetings

UNGA: meets once a year

Participation in meetings

Decision-making body: 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.

RECENT UNGA RESOLUTIONS

Resolution 55/162 (adopted at the 55th session of the General Assembly on 14 December 2000) on "Follow-up to the outcome of the Millennium Summit"

Resolution 56/95 (adopted at the 56th session of the General Assembly on 14 December 2001) on "Follow-up to the outcome of the Millennium Summit"

Resolution 57/144 (adopted at the 57th session of the General Assembly on 16 December 2002) on "Follow-up to the outcome of the Millennium Summit"

Resolution 58/291 (adopted at the 58th session of the General Assembly on 6 May 2004) on "Follow-up to the outcome of the Millennium Summit and integrated and co-ordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic and social fields"

SELECTED PARAGRAPHS

19. We resolve further:

- To halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water.

- To ensure that, by the same date, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education.
 - By the same date, to have reduced maternal mortality by three quarters, and under-five child mortality by two thirds, of their current rates.
 - To have, by then, halted, and begun to reverse, the spread of HIV/AIDS, the scourge of malaria and other major diseases that afflict humanity.
 - To provide special assistance to children orphaned by HIV/AIDS.
 - By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers as proposed in the “Cities Without Slums” initiative.
21. We must spare no effort to free all of humanity, and above all our children and grandchildren, from the threat of living on a planet irredeemably spoiled by human activities, and whose resources would no longer be sufficient for their needs.
22. We reaffirm our support for the principles of sustainable development, including those set out in Agenda 21, agreed upon at the United Nations Conference on Environment and Development.
23. We resolve therefore to adopt in all our environmental actions a new ethic of conservation and stewardship and, as first steps, we resolve:
- To make every effort to ensure the entry into force of the Kyoto Protocol, preferably by the tenth anniversary of the United Nations Conference on Environment and Development in 2002, and to embark on the required reduction in emissions of greenhouse gases.
 - To intensify our collective efforts for the management, conservation and sustainable development of all types of forests.
25. We resolve therefore:
- To respect fully and uphold the Universal Declaration of Human Rights.
 - To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
 - To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights.
 - To combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women.
 - To take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.
 - To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.
 - To ensure the freedom of the media to perform their essential role and the right of the public to have access to information

KEYWORDS

Poverty, sustainable development, environment, women, rights, HIV/AIDS, health, water, education

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The small-scale and artisanal fisheries sector, particularly in developing countries, is well known for its vulnerability and poverty. In this context, the commitment to reduce poverty and the proportion of the poor and hungry, could mean that due policy attention is

given to this hitherto neglected sector. It could also mean a better recognition of the contribution of this sector in meeting food security and nutritional needs of large sections of the population, particularly in rural areas. The Declaration reaffirms the support for the principles of sustainable development.

Millennium Development Goals

ACRONYM

MDG

under five years of age people who suffer from hunger

LEGAL STATUS

Non-binding

Goal 2: Achieve universal primary education

Target 3: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling

TYPE OF INSTRUMENT

Goals

OBJECTIVES

The Millennium Development Goals commit the international community to an expanded vision of development, one that vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development. The goals have been commonly accepted as a framework for measuring development progress.

Goal 3: Promote gender equality and empower women

Target 4: Eliminate gender disparity in primary and secondary education preferably by 2005 and to all levels of education no later than 2015

Goal 4: Reduce child mortality

Target 5: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate

DATE OF ADOPTION

18 September 2000

Goal 5: Improve maternal health

Target 6: Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio

PLACE OF ADOPTION

New York, US at the 8th plenary of the 55th session of the United Nations General Assembly

Goal 6: Combat HIV/AIDS, malaria and other diseases

Target 7: Have halted by 2015 and begun to reverse the spread of HIV/AIDS

Target 8: Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases

CONTENTS

Eight Goals

INITIATING BODY

United Nations General Assembly

SELECTED GOALS/TARGETS

Goal 1: Eradicate extreme poverty and hunger

Target 1: Halve, between 1990 and 2015, the proportion of population below \$1 (PPP) per day

Target 2: Halve, between 1990 and 2015, the proportion of underweight children

Goal 7: Ensure environmental sustainability

Target 9: Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources

Target 10: Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation

Target 11: By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers

Goal 8: Develop a global partnership for development

KEYWORDS

Indicators, poverty, development, sustainable development, environment, hunger, education, gender, health, trade, population, income

RELEVANCE TO FISHERIES/SMALL-SCALE FISHERIES/FISHWORKERS

The MDGs have time-bound targets, with clear indicators of progress, to meet eight agreed goals, designed to lead to specific and targeted attention towards the poor and vulnerable sections of society. Small-scale and artisanal fishworkers, among the poorest section of society, could benefit from this focus.

**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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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Theme II
Environment and Sustainable Development



International Collective in Support of Fishworkers
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Introduction

This theme provides information on four binding instruments, four non-binding conference declarations and three plans of action.

The beginning of the 1970s saw the emergence of instruments that highlighted the need for a holistic approach to environment and sustainable development. The instruments cover a broad range of issues, from the sustainable use of wetland resources, conservation of natural heritage, species and biodiversity, to the sustainable development of natural resources, environment protection and small island developing States (SIDS).

The 1971 Ramsar Convention was the first binding instrument to highlight the importance of sustainable use of natural resources. It outlines the principles of “wise use”, defined as “sustainable utilization of wetland resources in such a way as to benefit the human community while maintaining their potential to meet the needs and aspirations of future generations”. This is also highlighted in Principle 2 of the declaration of the United Nations Conference on the Human Environment (UNCHE) (Stockholm Conference, 1972): “...representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.” Two decades later, the United Nations Conference on Environment and Development (UNCED, 1992) and the Rio Declaration highlighted the need for sustainable development—socially responsible economic development that protects the resource base and the environment for the benefit of future generations. The Convention on Biological Diversity (CBD), which was one of the outcome instruments of the UNCED process, also highlights the need for conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Ten years later, the Johannesburg Declaration and the Plan of Implementation arising from the World Summit for Sustainable Development (WSSD, 2002) reconfirmed the commitment of States to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development—economic development, social development and environmental protection—at the local, national, regional and global levels.

The World Heritage Convention (WHC, 1972) recognizes the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of cultural and natural heritage as part of the life of the community.

The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention, 1979) calls for the conservation and effective management of migratory species of wild animals, fishes, marine mammals and marine reptiles (turtles).

The Conference on Small Island Developing States (Barbados Conference, 1994) highlighted the importance of island biodiversity as an ecological corridor linking major areas of biodiversity around the world. The conference called for international co-operation and partnership to support the SIDS in their efforts to conserve, protect and restore their ecosystems. The Barbados Plan of Action recognizes the importance of the coastal zone as a source of subsistence and economic development.

The WSSD Plan of Implementation calls for the application of an ecosystem approach to fisheries management by 2010, establishment of marine protected areas based on scientific information, including representative networks, by 2012, and asks States to implement the provisions in the 1971 Ramsar Convention and the CBD, including the Jakarta Mandate.

These instruments make specific reference to conservation and sustainable use of inland, marine and coastal biodiversity, including fisheries resources and protection of aquatic species, and highlight the importance of fishing communities participating in decision-making processes to manage such resources. They also highlight the importance of women in communities and their right to participate in resource management processes. These instruments highlight the need for an ecosystem approach to fisheries resource management.

Convention on Wetlands of International Importance especially as Waterfowl Habitat

SHORT TITLE

Convention on Wetlands or the Ramsar Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide a framework for national action and international cooperation for the conservation and wise use of wetlands and their resources.

DATE OF ADOPTION

2 February 1971

PLACE OF ADOPTION

Ramsar, Iran

DATE OF ENTRY INTO FORCE

21 December 1975

RATIFICATIONS

144 contracting parties (as of 16 February 2005)

INITIATING BODY

International Union for the Conservation of Nature and Natural Resources (IUCN-now called the World Conservation Union) and International Wildfowl Research Bureau (IWRB)

CONTENTS

Preamble and 12 Articles

ADDITIONAL INSTRUMENTS

- Paris Protocol amending the Convention 1982: Articles on

proposals for amendments were added between Article 10 and Article 11 of the Convention.

- Regina Amendments 1987: provides for the establishment of the Standing Committee and permanent secretariat and the rules of working of the Conference of the Parties (COP)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of the Contracting Parties (COP)

Subsidiary bodies

Standing Committee

Scientific and Technical Review Panel (STRP)

Periodicity of meetings

The COP meets once every three years. (The COP has met eight times till May 2004.)

The Standing Committee meets every year. (The Standing Committee has met 30 times till May 2004.)

Participation in meetings

Voting rights: Article 7, paragraph 2, of the Convention states that "Each of the Contracting Parties represented at a Conference shall have one vote, recommendations, resolutions and decisions being adopted by a simple majority of the Contracting Parties present and voting, unless otherwise provided for in this Convention"

Observers: According to Rule 7 of the Rules of procedure for the COP,

1. Any body or agency, national or international, whether governmental or non-governmental, qualified in

fields relating to the conservation and sustainable use of wetlands, which has informed the Bureau of its wish to be represented at meetings of the Conference of the Parties may be represented at the meeting by observers, unless at least one third of the Parties present at the meeting object.

2. Bodies or agencies desiring to be represented at the meeting by observers shall submit the names of these observers to the Convention Bureau at least one month prior to the opening of the meeting.
3. Such observers may, upon the invitation of the President, participate without the right to vote in the proceedings of any meeting unless at least one third of the Parties present at the meeting object.
4. Proposals made by observers may be put to the vote if sponsored by a Party.

For rules of participation in subsidiary bodies, please check www.ramsar.org

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GUIDELINES

(Brought out under the Convention)

- Guidelines for the operation of the Montreux Record, 1996
- Guidelines for international cooperation under the Ramsar Convention, 1999
- Guidelines for establishing and strengthening local communities' and indigenous people's

participation in the management of wetlands, 1999

- The Criteria for identifying Wetlands of International Importance, 1999
- New Guidelines for management planning for Ramsar sites and other wetlands, 2002
- Principles and guidelines for wetland restoration, 2002
- Principles and guidelines for incorporating wetland issues into Integrated Coastal Zone Management (ICZM), 2002
- Programme on communication, education and public awareness (CEPA) 2003-2008 of the Convention on Wetlands, 2002
- A Framework for Wetland Inventory, 2002
- Guidelines for Global Action on Peatlands (GAP), 2002
- Guidance for identifying and designating peatlands, wet grasslands, mangroves and coral reefs as Wetlands of International Importance, 2002
- Guidelines for the allocation and management of water for maintaining the ecological functions of wetlands, 2002
- General guidance for interpreting "urgent national interests" under Article 2.5 of the Convention and considering compensation under Article 4.2, 2002

REGIONAL INSTRUMENTS

Strategic guidelines and plans for management for the following regions:

- Mediterranean Wetland Strategy
- Small Island Developing States
- South America and
- Western Asia

REGIONAL AGENCIES

Mediterranean Wetland Committee was formed under the aegis of the Ramsar Convention in 1996. Its goal is "to stop

and reverse the loss and degradation of Mediterranean wetlands, as a contribution to the conservation of biodiversity and to sustainable development in the region.”

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.

Article 2

1. Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, hereinafter referred to as “the List” which is maintained by the bureau established under Article 8. The boundaries of each wetland shall be precisely described and also delimited on a map and they may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands, especially where these have importance as waterfowl habitat.

Article 3

1. The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.
2. Each Contracting Party shall arrange to be informed at the earliest possible time if the ecological character of any

wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the organization or government responsible for the continuing bureau duties specified in Article 8.

Article 4

1. Each Contracting Party shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, whether they are included in the List or not, and provide adequately for their wardening.
2. Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.
3. The Contracting Parties shall encourage research and the exchange of data and publications regarding wetlands and their flora and fauna.
4. The Contracting Parties shall endeavour through management to increase waterfowl populations on appropriate wetlands.
5. The Contracting Parties shall promote the training of personnel competent in the fields of wetland research, management and wardening.

Article 5

1. The Contracting Parties shall consult with each other about implementing obligations arising from the Convention especially in the case of a wetland extending over the territories of more than one Contracting Party or where a water system is shared by Contracting Parties. They shall at the same time endeavour to coordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna.

KEYWORDS

Biodiversity, CBD, coastal areas, coastal zone, community based management, conservation, cooperation, dams, ecosystems, EIA, environment, fauna, fish species, guidelines, habitat, ICZM, indigenous peoples, local communities, MEA, migratory stocks, nature reserves, participatory management, policy, pollution, protected areas, Ramsar, regulations, resource management, restoration, risk assessment, SIDS, sovereign rights, traditional knowledge, waterfowl, wetland management, wetlands, wise use, women

**RELEVANCE TO FISHERIES/
FISHWORKERS**

Coastal wetlands are known to be highly productive and are extensively used as feeding and spawning grounds and nurseries by fish and shellfish, including those with open-water adult stages. Healthy and productive wetlands are essential for healthy fisheries and, hence, the emphasis on their conservation and sustainable management is vital from a fisheries perspective.

Notably, Resolution VI.2 (COP6, Brisbane 1996) was on the "Adoption of specific criteria based on fish for identifying Wetlands of International Importance".

The preamble to the resolution emphasized the importance of the increased recognition of the importance of wetlands as fish habitats. It also noted that in many instances commercial fisheries are regulated by statutes whose objectives are compatible with the sustainable exploitation of fishing resources with due regard for the aquatic environment.

The Resolution adopted the specific criteria based on fish, and guidelines for their application, appended as an Annex to the Resolution, and called on Contracting Parties to use these criteria and guidelines to identify sites for inclusion in the Ramsar List. Criteria 7 and 8 proposed that a wetland should be considered of international importance if it supports a significant proportion of indigenous fish subspecies, species or families and populations, or if it provides important food sources for fishes, or are spawning grounds, nursery areas and/or is on their migration path.

**RELEVANCE TO SMALL-SCALE
FISHERIES/FISHWORKERS**

Resolution VII.8 (COP7, San Jose, 1999) on "Local communities and indigenous people" is of importance to small-scale fisheries. It refers to ILO's Convention C169 concerning Indigenous People and Tribal Peoples in independent countries as well as to the fact that in many contexts, indigenous people and local communities are already involved in managing and using wetlands sustainably, and have long-standing rights, ancestral values, and traditional knowledge and institutions associated with their use of wetlands. The Resolution adopted, as an Annex, the Guidelines for establishing and strengthening local communities' and indigenous people's participation in the management of wetlands. These specifically mention that "local" is a relative term and may also include

Environment and Sustainable Development

groups such as migrating fishermen who live at some distance from the wetland but have traditional claims to its resources.

The guidelines emphasize the need to encourage active and informed participation, and the assumption of responsibility, by local communities and

indigenous people in the management of Ramsar-listed sites and other wetlands and the implementation of the wise-use principles at the local, watershed, and national levels. It also calls for priority and special attention to involving women, youth and their representative organizations wherever and whenever possible.

Convention concerning the Protection of the World Cultural and Natural Heritage

SHORT TITLE

World Heritage Convention

ACRONYM

WHC

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To establish an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods.

CONTENTS

Preamble with 38 Articles

DATE OF ADOPTION

16 November 1972

PLACE OF ADOPTION

General Conference of UNESCO

DATE OF ENTRY INTO FORCE

17 December 1975

RATIFICATIONS

179 States Parties (as of 7 January 2005)

INITIATING BODY

United Nations Educational, Scientific and Cultural Organization (UNESCO)

WORKING OF THE INSTRUMENT

Decision-making body

- The General Assembly of States, Party to the Convention

- The World Heritage Committee or The Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage
- The Bureau of the World Heritage Committee

Advisory bodies

- IUCN-The World Conservation Union, for natural properties
- The International Council on Monuments and Sites (ICOMOS), for cultural properties
- The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), for cultural properties (restoration and training)

Periodicity of meetings

General Assembly of the States: meets every two years (The General Assembly has met 13 times till December 2004)

World Heritage Committee: meets once a year in June (The Committee has met 28 times till December 2004)

Bureau of the World Heritage Committee: meets once a year in April

Participation in meetings

According to the Rules of Procedure

Voting rights: representatives of States party to the Convention have voting rights

Observers: The representatives of Member States of UNESCO not parties to the Convention and permanent observer missions to UNESCO may participate in the work of the Assembly as observers, without the right to vote, and subject to Rule 7.3.

Representatives of the United Nations and organizations of the United Nations system and other intergovernmental organizations which have concluded

mutual representation agreements with UNESCO, as well as observers of intergovernmental and international non-governmental organizations invited by the Director-General, may participate in the work of the Assembly, without the right to vote, and subject to Rule 7.3.

For further information on participation in other committees, check <http://whc.unesco.org>

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Website: www.whc.unesco.org

GUIDELINES

Operational Guidelines for the Implementation of the World Heritage Convention, July 2002

RECENT UNGA RESOLUTIONS

Resolution 58/124 (adopted at the 75th plenary meeting at the 58th session of the United Nations General Assembly on 17th December 2003) on “United Nations Year for Cultural Heritage, 2002”. It adopted the Declaration concerning the Intentional Destruction of Cultural Heritage by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 October 2003 and invited Member States and observers to continue to promote education and raise public awareness so as to foster respect for national and world cultural heritage.

SELECTED ARTICLES

Article 2

For the purposes of this Convention, the following shall be considered as “natural heritage”:

- natural features consisting of

physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

- geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

- a. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

- b. to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;
- c. to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;
- d. to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and
- e. to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

- 1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.
- 2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conserva-

tion and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

- 3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

KEYWORDS

Heritage, conservation, protection, culture, Convention, UNESCO, natural resources, biodiversity, education, natural heritage, cultural heritage

**RELEVANCE TO FISHERIES/
FISHWORKERS**

Natural heritage, as defined in the Convention, includes several inland and marine areas, important for fisheries. Some of the World Heritage Sites important from a fisheries perspective, include the Great Barrier Reef of Australia, the Sunderbans Biosphere Reserve in India and Bangladesh, and the Tubbataha Reef Marine Park in the Philippines. The list also includes wetlands that are in the Ramsar Wetlands list. The 172 natural and mixed sites included in the World Heritage List cover as much as 13 per cent of the world's protected areas.

Article 5 of the Convention calls on States to adopt a general policy that aims to give the cultural and natural heritage a function in the life of the community, and to integrate the protection of that heritage into comprehensive planning programmes.

Convention on the Conservation of Migratory Species of Wild Animals

SHORT TITLE

Bonn Convention

ACRONYM

CMS

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Acknowledging the importance of conservation of migratory species, Parties:

- a. Should promote, co-operate in and support research relating to migratory species;
- b. Shall endeavour to provide immediate protection for migratory species included in Appendix I (list of species which are endangered); and
- c. Shall endeavour to conclude Agreements covering the conservation and management of migratory species included in Appendix II (list of species not in immediate danger of extinction).

CONTENTS

20 Articles and two Appendices

OPENED FOR SIGNATURE

23 June 1979

DATE OF ENTRY INTO FORCE

1 November 1983

SIGNATORIES

Three

RATIFICATIONS

89 (as of 1 February 2005)

ADDITIONAL INSTRUMENTS

Agreements (According to Article IV.2 of the Convention "Parties that are Range States of migratory species listed in Appendix II shall endeavour to conclude Agreements where these should benefit the species and should give priority to those species in an unfavourable conservation status.")

INITIATING BODY

United Nations Environment Programme (UNEP)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Subsidiary bodies

Standing Committee
Scientific Council

- Working Groups

Periodicity of meetings

The COP meets once in three years (The COP has met seven times till May 2004)

Participation in meetings

According to the Rules of Procedure for the COP

Voting rights: All States party to the Convention can vote.

Observers: a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located can participate as observers.

Secretariat

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REGIONAL INSTRUMENTS

Selected Agreements

- Agreement on the Conservation of Seals in the Wadden Sea, 1990
- Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS), 1991
- Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), 1996
- Agreement on the Conservation of Albatrosses and Petrels, 2001

Selected MOU

- Memorandum of Understanding concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa, 1999
- Memorandum of Understanding concerning Conservation Measures for Marine Turtles and their habitats of the Indian Ocean and South-East Asia (IOSEA), 2001

SELECTED ARTICLES

Article II

Fundamental Principles

1. The Parties acknowledge the importance of migratory species being conserved and of Range States agreeing to take action to this end whenever possible and appropriate, paying special attention to migratory species the conservation status of which is unfavourable, and taking

individually or in co-operation appropriate and necessary steps to conserve such species and their habitat.

2. The Parties acknowledge the need to take action to avoid any migratory species becoming endangered.
3. In particular, the Parties:
 - a) should promote, co-operate in and support research relating to migratory species;
 - b) shall endeavour to provide immediate protection for migratory species included in Appendix I; and
 - c) shall endeavour to conclude Agreements covering the conservation and management of migratory species included in Appendix II.

Article III

Endangered Migratory Species: Appendix I

4. Parties that are Range States of a migratory species listed in Appendix I shall endeavour:
 - a) to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;
 - b) to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and
 - c) to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.

5. Parties that are Range States of a migratory species listed in Appendix I shall prohibit the taking of animals belonging to such species. Exceptions may be made to this prohibition only if:
 - a) the taking is for scientific purposes;
 - b) the taking is for the purpose of enhancing the propagation or survival of the affected species;
 - c) the taking is to accommodate the needs of traditional subsistence users of such species; or
 - d) extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time. Such taking should not operate to the disadvantage of the species.
6. The Conferences of the Parties may recommend to the Parties that are Range States of a migratory species listed in Appendix I that they take further measures considered appropriate to benefit the species.

KEYWORDS

Migratory species, management, conservation, endangered species, habitat, UNCLOS, subsistence users, CMS, trade

RELEVANCE TO FISHERIES/ FISHWORKERS

The aim of the Convention is the conservation and effective management of migratory species of wild animals, fishes, marine mammals and marine reptiles (turtles), as listed in Appendices I and II.

The Convention obliges Range States to prohibit the taking (i.e. hunting, fishing, capturing, harassing and deliberate

killing) of animals of Appendix I species, except for specified reasons, and endeavours to conserve and restore important habitats of Appendix I species, to counteract factors impeding their migration, and to control other factors that might endanger them. From a fisheries perspective, Agreements on the conservation of seals, cetaceans and certain seabirds, as well as the Memoranda of Understanding on protection and conservation of marine turtles are important, as these species may be affected by certain kinds of fishing operations.

Appendix II lists migratory species that require, or would benefit significantly from, international co-operation. The Convention provides for separate international legally binding instruments between Range States of certain migratory species or groups of species listed in Appendix II.

Resolution 7.10 (COP7, Bonn, 2002) urged Parties to integrate the conservation and sustainable use of migratory species and their habitats into their policies, plans and programmes, which are consistent with the provisions in the Convention, in order to implement the WSSD Plan of Implementation.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Article III.5 states that taking of species under Appendix I should be prohibited. However, Article III.5 (c) notes that exceptions may be made if the taking is to accommodate the needs of traditional subsistence users of such species.

The aims of CMS are the conservation and management of migratory species. For this purpose, management programmes for specific species of

migratory animals are being developed. The term “management” in connection with CMS includes sustainable use. Therefore, traditional hunting practices are allowed under CMS. This is of special importance for indigenous peoples. Even Appendix I species, i.e. endangered species, may be taken by traditional

subsistence users, as long as this taking is not further endangering the species. Appendix II species may be taken subject to certain conditions, e.g. sustainability. However, according to the structure of CMS, this would require a formal Agreement between the respective Range States.

Convention on Biological Diversity

ACRONYM

CBD

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources

CONTENTS

Preamble, 42 Articles, 2 Annexes
Annex I. Identification and Monitoring
Annex II. Part 1. Arbitration
Annex II. Part 2. Conciliation

DATE OF ADOPTION

22 May 1992

PLACE OF ADOPTION

Nairobi, Kenya

OPENED FOR SIGNATURE

Rio de Janeiro, Brazil, 5 June 1992

DATE OF ENTRY INTO FORCE

29 December 1993

SIGNATORIES

168

RATIFICATIONS

188 (as of 24 March 2005)

ADDITIONAL INSTRUMENTS

Cartagena Protocol on Biosafety, 2000:
This seeks to ensure adequate level of

protection in transfer, handling and use of LMO's resulting from modern biotechnology that may have diverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health. (It has 117 ratifications, and 103 signatures (as of 24 March 2005), and entered into force on 11 September 2003)

INITIATING BODY

United Nations Environment Programme (UNEP)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Subsidiary bodies

Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA)

Working Groups

- Working Group on Article 8 j
- Ad Hoc Open-ended Working Group on Access and Benefit-Sharing
- Ad Hoc Open-ended Working Group on Protected Areas
- Ad Hoc Open-ended Working Group on Review of Implementation of the Convention
- Ad hoc technical expert groups

Periodicity of meetings

COP: meets once in two years (The COP has met seven times till May 2004).
SBSTTA: meets once a year (The SBSTTA has met nine times till May 2004).

Participation in meetings

According to the rules of procedure

Voting rights: States Party to the Convention.

Observers: The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers is subject to the rules of procedure adopted by the Conference of the Parties.

For rules of participation in SBSTTA and in Ad Hoc expert technical group meetings, check www.biodiv.org

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GUIDELINES

- Bonn Guidelines on Access to Genetic Resources and Benefit sharing, 2002;
- Akwé: kon voluntary guidelines for the conduct of cultural, environmental and social impact assessment, 2004;
- Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity, 2003;
- The Principles and Guidelines of the ecosystem approach;
- The Guiding Principles for the prevention, introduction and

mitigation of impact of alien species that threaten ecosystems, habitats or species;

- The Guidelines for incorporating biodiversity-related issues into environmental impact assessment legislation and/or processes and in strategic environmental assessment; and
- Guidelines on Biodiversity and Tourism Development.

SELECTED ARTICLES

Article 8. In situ Conservation

- (c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;
- (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

Article 10. Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

- (a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- (b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

- (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- (d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and
- (e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

KEYWORDS

Conservation, alien species, biodiversity, biotechnology, CBD, customary use, ecosystems, environment, equitable sharing, genetic resources, indigenous communities, IPR, local communities, marine environment, natural resources, protected areas, resource management, sustainable development, endangered species, traditional knowledge, UNCLOS, Cartagena protocol, Convention, biosafety, governance, indigenous communities, local knowledge, sustainable use, ecosystem approach, cultural practices

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention recognizes that conservation of biological diversity is a common concern of all and an integral part of the development process. Biodiversity issues are addressed for the first time in a comprehensive manner. The Convention calls on States to introduce appropriate procedures to minimize adverse impacts of projects, programmes and policies on biological diversity, and to prevent the introduction of, control or eradicate those alien species that threaten ecosystems, habitats or species.

COP2 (Jakarta, 1995) expressed deep concern at the serious threats to marine and coastal biological diversity caused by physical alteration, destruction and degradation of habitats, pollution, invasion of alien species, and overexploitation of living marine and coastal resources. It referred to the FAO Code of Conduct for Responsible Fisheries as well as the United Nations Fish Stocks Agreement (UNFSA) as two important fisheries instruments, supporting their implementation. The Jakarta Mandate addresses marine biodiversity conservation and management. It proposed integrated marine and coastal area management (IMCAM) as the most suitable framework for addressing human impacts on marine and coastal biological diversity and for promoting conservation and sustainable use of this biodiversity. COP5 (Nairobi, 2000) called for the application of the ecosystem approach for the management of resources.

COP7 (Kuala Lumpur, 2004) emphasized the importance of setting up marine and coastal protected areas (MCPA) as one of the essential tools and approaches in the conservation and sustainable use of marine and coastal biodiversity, and the need for networks of such areas.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Convention has several provisions that are of relevance to, and can protect the interests of, small-scale and artisanal fishing communities. Article 8(j) recognizes the need to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, and to promote their wider application. The need to encourage the

equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices, is also highlighted. Article 10 (c) calls on States to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

The Basic Principles in Annex II of the Programme of Work on Marine and Coastal Biodiversity, under Decision II.10 (COP2, Jakarta, 1995), noted that the implementation of the programme of work should be carried out with the full and effective participation of indigenous and local communities and called for respect of their rights under domestic and applicable international law (Annex II para 3.d).

Decision V/3 of COP5 (Nairobi, 2000) urged Governments to implement response measures to the phenomenon of coral bleaching by identifying and instituting additional and alternative measures for securing the livelihoods of people who directly depend on coral-reef services, and by building stakeholder partnerships, community participation programmes and public education campaigns and information products that address the causes and consequences of coral bleaching. It also recommended gathering information on approaches to

the management of marine and coastal living resources in relation to those used by local and indigenous communities, and to make the information available through the clearing-house mechanism.

The Basic Principles in Annex I on the Elaborated Programme of Work On Marine and Coastal Biological Diversity, under Decision VII/5 (COP7, Kuala Lumpur, 2004), stress that the programme of work should be carried out with the full and effective participation of indigenous and local communities. Specific reference is made to Article 6.18 of the FAO Code of Conduct for Responsible Fisheries that highlights the need to protect the preferential access rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to traditional fishing grounds and resources. The programme of work also aims to make a direct contribution to poverty alleviation, in accordance with the Millennium Development Goals.

Programme Element 2 on Governance, participation, equity and benefit sharing under the Programme of Work in Protected Areas (COP7, Kuala Lumpur, 2004), emphasizes the full and effective participation of local and indigenous communities in protected area management.

United Nations Conference on the Human Environment

SHORT TITLE

Stockholm Conference

ACRONYM

UNCHE

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To develop a common outlook and common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment.

CONTENTS

7 statements of proclamation and 26 principles

NAME OF DECLARATION

Stockholm Declaration

PLACE OF DECLARATION

Stockholm, Sweden

DATE OF DECLARATION

16 June 1972

INITIATING BODY

United Nations General Assembly

PLAN

Action Plan for the Human Environment

- Educational, Informational, Social and Cultural Aspects of Environmental Issues
- Framework for environmental action
- Recommendations for action at the international level

SUBSEQUENT MEETINGS

United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, Brazil, 1992
World Summit for Sustainable Development (WSSD), Johannesburg, 2002

ADDITIONAL INFORMATION

This was the first conference that brought together heads of nations to deliberate on the status of the environment. The UN Environment Programme (UNEP) was set up subsequent to this conference. The UNEP has been instrumental in organizing subsequent conferences (UNCED 1992, WSSD 2002) and in initiating a number of Conventions including the CBD that are of great importance to fisheries.

SELECTED PRINCIPLES

Principle 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage

amenities or to interfere with other legitimate uses of the sea.

Principle 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management, since economic factors as well as ecological processes must be taken into account.

Principle 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

Principle 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

Principle 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is

compatible with the need to protect and improve environment for the benefit of their population.

Principle 21

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

KEYWORDS

Environment, pollution, seas, development, resources management, environmental management, Stockholm declaration, developing countries

**RELEVANCE TO FISHERIES/
FISHWORKERS**

This landmark conference, held in 1972, brought to the forefront the growing concern for environmental degradation worldwide, and put environmental issues firmly on the international agenda. Principle 2 talked about the need to safeguard the environment for the benefit of both present and future generations, first outlining the concept of sustainable development. The Declaration clearly reflected the concerns of developing countries, and the need to ensure compatibility between development and environment. Specific reference to the growing problem of marine pollution was made in Principle 7, which highlighted the need to prevent pollution of the seas by substances that can harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea.

United Nations Conference on Environment and Development

SHORT TITLE

Earth Summit, Rio Conference

ACRONYM

UNCED

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

ADDITIONAL INSTRUMENTS

Convention on Biological Diversity (CBD)
United Nations Framework Convention
on Climate Change (UNFCCC)

NAME OF DECLARATION

Rio declaration

PLACE OF DECLARATION

Rio de Janeiro, Brazil

DATE OF DECLARATION

3-14 June 1992

INITIATING BODY

United Nations General Assembly

PLAN

Agenda 21: The Programme of Action for Sustainable Development

SUBSEQUENT MEETINGS

Earth Summit +5 in 1997
World Summit on Sustainable
Development in 2002

RECENT UNGA RESOLUTIONS

Resolution 55/199 (adopted at the 55th session of the United Nations General Assembly on 20 December 2000) on the "Ten-year review of progress achieved

in the implementation of the outcome of the United Nations Conference on Environment and Development", decided to organize a world summit to review the progress of implementation of the United Nations Conference on Environment and Development in 2002. It also decided that the Summit should ensure a balance between economic development, social development and environment protection, as these are interdependent and mutually reinforcing components of sustainable development.

SELECTED PRINCIPLES

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating

poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 22

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

KEYWORDS

Sustainable development, resources, environment, management, conservation, indigenous communities, EIA, pollution, legislation, precautionary approach, polluter pays principle, women, poverty eradication, developing countries

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The UNCED process and the Rio Declaration highlighted the need for sustainable development—socially responsible economic development that protects the resource base and the environment for the benefit of future generations. It put human beings at the centre of concerns for sustainable development and emphasized the importance of eradicating poverty as an indispensable requirement for sustainable development.

The Rio Declaration (Principle 15) emphasized the need for a precautionary approach—where there are threats of serious or irreversible damage, lack of

full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. This has since become an important concept in fisheries management. Principles 16 and 17 stress the need to promote the “polluter pays” principle, and environmental impact assessments (EIAs) for activities likely to have an adverse impact on the environment.

**RELEVANCE TO SMALL-SCALE
FISHERIES/FISHWORKERS**

The perspective on sustainable development elaborated in the Rio Declaration, particularly the emphasis on poverty eradication, is very important from the perspective of the millions of small-scale and artisanal fishworkers who depend on fisheries for a livelihood, but whose lives continue to be characterized by poverty and vulnerability. Significantly, the Rio Declaration also affirms the important role of women and of indigenous peoples and their communities in environmental management and development.

Agenda 21: The Programme of Action for Sustainable Development

SHORT TITLE

Agenda 21

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To function as a comprehensive blueprint for action to be taken globally by Governments, UN organizations, development agencies, NGOs, and independent-sector groups in every area in which human activity impacts on the environment.

CONTENTS

40 Chapters

Chapter 15 is on Conservation of Biological Diversity

Chapter 17 is on Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources.

WORKING OF THE INSTRUMENT

Decision-making body

Economic and Social Council (ECOSOC) and through this to the second committee of the General Assembly of the United Nations

Monitoring and implementation

Commission on Sustainable Development (CSD)

Periodicity of meetings

The CSD meets once a year. (There have been 13 sessions of the CSD till April 2005.)

Participation in meetings

Monitoring and implementation

Voting rights: 13 members are elected from Africa, 11 from Asia, 10 from Latin America and the Caribbean, six from Eastern Europe, and 13 from Western Europe and others, to the CSD. One-third of the members are elected annually and outgoing members are eligible for re-election.

Observers: To participate in official meetings of the CSD as a representative of the major groups, each individual participant must belong to, or be associated with, an international, regional, sub-regional, or national non-governmental, non-profit, or voluntary organization that is accredited (meaning that it is in consultative status) with ECOSOC, or on the CSD Roster.

In February 2004, ECOSOC decided that non-governmental organizations and other major groups accredited to the World Summit on Sustainable Development can participate in the first two-year implementation cycle of the Commission on Sustainable Development. The major groups of civil society, as defined by Agenda 21 are women, children and youth, indigenous people, non-governmental organizations, local authorities, workers and trade unions, business and industry, scientific and technological communities, and farmers. These groups have participated in meetings of the Commission on Sustainable Development (CSD) as

representatives of a variety of different organizations who have been accredited to the United Nations. Fishers are considered as part of the farmers major group in this process.

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RECENT UNGA RESOLUTIONS

Resolution 58/218 (adopted at the 58th session of the United Nations General Assembly on 23 December 2003) on “Implementation of Agenda 21, the programme for the further implementation of Agenda 21 and the outcome of the WSSD” reiterated that sustainable development is the key element of the overarching framework for United Nations activities, in particular for achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration and in the Johannesburg Plan of Implementation. It called upon Governments to implement the commitments, programmes and time-bound targets adopted at the WSSD.

SELECTED PARAGRAPHS

Chapter 17

17.1. The marine environment—including the oceans and all seas and adjacent coastal areas—forms an integrated whole that is an essential component of the global life-support system and a positive asset that presents opportunities for sustainable development. International law, as

reflected in the provisions of the United Nations Convention on the Law of the Sea, referred to in this chapter of Agenda 21, sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources. This requires new approaches to marine and coastal area management and development, at the national, subregional, regional and global levels, approaches that are integrated in content and are precautionary and anticipatory in ambit, as reflected in the following programme areas:

- (a) Integrated management and sustainable development of coastal areas, including exclusive economic zones;
- (b) Marine environmental protection;
- (c) Sustainable use and conservation of marine living resources of the high seas;
- (d) Sustainable use and conservation of marine living resources under national jurisdiction;
- (e) Addressing critical uncertainties for the management of the marine environment and climate change;
- (f) Strengthening international, including regional, cooperation and coordination;
- (g) Sustainable development of small islands.

17.15. Coastal States should promote and facilitate the organization of education and training in integrated coastal and marine management and sustainable development for scientists, technologists, managers (including community-based managers) and users, leaders, indigenous peoples, fisherfolk, women and youth, among others. Management and development, as well as environmental protection concerns and local planning issues,

should be incorporated in educational curricula and public awareness campaigns, with due regard to traditional ecological knowledge and socio-cultural values.

17.74. States commit themselves to the conservation and sustainable use of marine living resources under national jurisdiction. To this end, it is necessary to:

- (a) Develop and increase the potential of marine living resources to meet human nutritional needs, as well as social, economic and development goals;
- (b) Take into account traditional knowledge and interests of local communities, small-scale artisanal fisheries and indigenous people in development and management programmes;
- (c) Maintain or restore populations of marine species at levels that can produce the maximum sustainable yield as qualified by relevant environmental and economic factors, taking into consideration relationships among species;
- (d) Promote the development and use of selective fishing gear and practices that minimize waste in the catch of target species and minimize by-catch of non-target species;
- (e) Protect and restore endangered marine species;
- (f) Preserve rare or fragile ecosystems, as well as habitats and other ecologically sensitive areas.

17.79. Coastal States, individually or through bilateral and/or multilateral cooperation and with the support, as appropriate of international organizations, whether subregional, regional or global, should *inter alia*:

- (b) Implement strategies for the sustainable use of marine living

resources, taking into account the special needs and interests of small-scale artisanal fisheries, local communities and indigenous people to meet human nutritional and other development needs.

17.81. Coastal States should support the sustainability of small-scale artisanal fisheries. To this end, they should, as appropriate:

- (a) Integrate small-scale artisanal fisheries development in marine and coastal planning, taking into account the interests and, where appropriate, encouraging representation of fishermen, small-scale fishworkers, women, local communities and indigenous people;
- (b) Recognize the rights of small-scale fishworkers and the special situation of indigenous people and local communities, including their rights to utilization and protection of their habitats on a sustainable basis;
- (c) Develop systems for the acquisition and recording of traditional knowledge concerning marine living resources and environment and promote the incorporation of such knowledge into management systems.

17.82. Coastal States should ensure that, in the negotiation and implementation of international agreements on the development or conservation of marine living resources, the interests of local communities and indigenous people are taken into account, in particular their right to subsistence.

17.83. Coastal States, with the support, as appropriate, of international organizations should conduct analyses of the potential for aquaculture in marine and coastal areas under national jurisdiction and apply appropriate

safeguards as to the introduction of new species.

17.84. States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

17.94. Coastal States, with the support of relevant subregional, regional and global agencies, where appropriate, should:

- (a) Develop research capacities for assessment of marine living resource populations and monitoring;
- (b) Provide support to local fishing communities, in particular those that rely on fishing for subsistence, indigenous people and women, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional knowledge of marine living resources and fishing techniques, and upgrade knowledge on marine ecosystems;
- (c) Establish sustainable aquaculture development strategies, including environmental management in support of rural fish-farming communities.

KEYWORDS

Agenda 21, conservation, sustainable development, biodiversity, wastes, management, indigenous communities, rights, environment, fisheries, overfishing, EEZ, coral reefs, coastal habitats, marine environment, fishing gear, small-scale fisheries, artisanal fisheries, fishworkers, fishermen, women, fisheries management, traditional knowledge, sustainable use, sustainable aquaculture

RELEVANCE TO FISHERIES/ FISHWORKERS

Agenda 21 reflects a global consensus and political commitment at the highest level on development and environment

co-operation. Chapter 17 of Agenda 21 provides a comprehensive action plan for the protection and sustainable development of the marine and coastal environment. It calls for a precautionary and anticipatory, rather than a reactive, approach to prevent the degradation of the marine environment.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

From the perspective of the artisanal and small-scale fisheries sector, Chapter 17 of Agenda 21 takes into account several concerns, including: formalizing fishworkers' rights to participate in decision-making processes for formulation and implementation of policies with regard to fisheries development and management; the right of women to have equal opportunities with men in fisheries management and greater selectivity of fishing gear and techniques.

Section 17.74 b emphasizes that States must take into account the traditional knowledge and interests of local communities, small-scale artisanal fisheries and indigenous people in development and management programmes. Section 17.81 asks coastal States to support the sustainability of small-scale artisanal fisheries by integrating small-scale artisanal fisheries development into marine and coastal planning as well as by recognizing the rights of small-scale fishworkers. Section 17.94 asks States to provide support to local fishing communities, in particular those that rely on fishing for subsistence, indigenous people and women, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional knowledge of marine living resources and fishing techniques, and upgrade knowledge on marine ecosystems.

World Summit on Sustainable Development

ACRONYM

WSSD

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To focus the world's attention and direct action toward meeting difficult challenges, including improving people's lives and conserving our natural resources in a world that is growing in population, with ever-increasing demands for food, water, shelter, sanitation, energy, health services and economic security.

CONTENTS

37 points in 6 parts

NAME OF DECLARATION

Johannesburg Declaration on Sustainable Development

PLACE OF DECLARATION

Johannesburg, South Africa

DATE OF DECLARATION

4 September 2002

INITIATING BODY

Commission on Sustainable Development (CSD), United Nations

PLAN

Johannesburg Plan of Implementation

RECENT UNGA RESOLUTIONS

The Johannesburg declaration and Plan of Implementation were endorsed by the

UNGA in its resolution 57/253 adopted at its 78th Plenary Meeting on 20th December 2002.

Resolution 58/218 (adopted at the 78th plenary meeting in the 58th session of the United Nations General Assembly on 23 December 2003) on "Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development" called upon States to take action to ensure the effective implementation of, and follow-up to, the commitments, programmes and time-bound targets adopted at the Summit, and encouraged them to report on concrete progress in that regard.

SELECTED PARAGRAPHS

5. Accordingly, we assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development—economic development, social development and environmental protection—at the local, national, regional and global levels.
11. We recognize that poverty eradication, changing consumption and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development.
13. The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects

of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life.

14. Globalization has added a new dimension to these challenges. The rapid integration of markets, mobility of capital and significant increases in investment flows around the world have opened new challenges and opportunities for the pursuit of sustainable development. But the benefits and costs of globalization are unevenly distributed, with developing countries facing special difficulties in meeting this challenge.
20. We are committed to ensuring that women's empowerment, emancipation and gender equality are integrated in all the activities encompassed within Agenda 21, the Millennium development goals and the Plan of Implementation of the Summit.
21. We recognize the reality that global society has the means and is endowed with the resources to address the challenges of poverty eradication and sustainable development confronting all humanity. Together, we will take extra steps to ensure that these available resources are used to the benefit of humanity.
24. We shall continue to pay special attention to the developmental needs of small island developing States and the least developed countries.
25. We reaffirm the vital role of the indigenous peoples in sustainable development.

26. We recognize that sustainable development requires a long-term perspective and broad-based participation in policy formulation, decision-making and implementation at all levels. As social partners, we will continue to work for stable partnerships with all major groups, respecting the independent, important roles of each of them.

KEYWORDS

Sustainable development, environment, biodiversity, fish stocks, globalization, poverty eradication, indigenous peoples, gender equality

RELEVANCE TO FISHERIES/ FISHWORKERS

The Johannesburg Declaration reaffirms the commitment of States to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development—economic development, social development and environmental protection—at the local, national, regional and global levels. It acknowledges that the global environment, including fisheries and marine resources, continue to suffer even as the gap between the rich and the poor, and the developed and developing worlds continues to increase, posing a major threat to global prosperity, security and stability. States are committed to expediting the achievement of the time-bound socioeconomic and environmental targets contained in the WSSD Plan of Action.

The Declaration acknowledges the vital role of women and of indigenous people in sustainable development, and suggests that special attention should be given to the developmental needs of small island developing States and the least developed countries.

Johannesburg Plan of Implementation

ACRONYM

JPoI

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

- To build on the achievements made since UNCED and expedite the realization of the remaining goals.
- To undertake concrete actions and measures at all levels and to enhancing international cooperation, taking into account the Rio Principles, including, *inter alia*, the principle of common but differentiated responsibilities as set out in principle 7 of the Rio Declaration on Environment and Development.
- To promote the integration of the three components of sustainable development – economic development, social development and environmental protection – as interdependent and mutually reinforcing pillars.

CONTENTS

153 paragraphs spread over 11 chapters

WORKING OF THE INSTRUMENT

Decision-making body

Economic and Social Council (ECOSOC) and through this to the second committee of the General Assembly of the United Nations

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Periodicity of meetings

The CSD meets once a year. (There have been 13 sessions of the CSD till April 2005.)

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and trade unions, business and industry, scientific and technological communities, and farmers. These groups have participated in meetings of the Commission on Sustainable Development (CSD) as representatives of a variety of different organizations who have been accredited to the United Nations. Fishers are considered as part of the farmers major group in this process.

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RECENT UNGA RESOLUTIONS

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Resolution 58/218 (adopted at the 78th plenary meeting in the 58th session of the United Nations General Assembly on 23 December 2003) on "Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development" called upon States to take action to ensure the effective implementation of, and follow-up to, the commitments, programmes and time-bound targets adopted at the Summit, and encouraged them to report on concrete progress in that regard.

SELECTED PARAGRAPHS

7. Eradicating poverty is the greatest global challenge facing the world today and an indispensable requirement for sustainable development, particularly for developing countries. Although each country has the primary responsibility for its own sustainable development and poverty eradication and the role of national policies and development strategies cannot be overemphasized, concerted and concrete measures are required at all levels to enable developing countries to achieve their sustainable development goals as related to the internationally agreed poverty-related targets and goals, including those contained in Agenda 21, the relevant outcomes of other United Nations conferences and the United Nations Millennium Declaration. This would include actions at all levels to:
 - (j) Transfer basic sustainable agricultural techniques and knowledge, including natural resource management, to small and medium-scale farmers, fishers and the rural poor, especially in developing countries, including through multi-stakeholder approaches and public-private partnerships aimed at increasing agriculture production and food security;
30. Oceans, seas, islands and coastal areas form an integrated and essential component of the Earth's ecosystem and are critical for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries.

Ensuring the sustainable development of the oceans requires effective coordination and cooperation, including at the global and regional levels, between relevant bodies, and actions at all levels to:

- (b) Promote the implementation of Chapter 17 of Agenda 21 which provides the programme of action for achieving the sustainable development of oceans, coastal areas and seas through its programme areas of integrated management and sustainable development of coastal areas, including exclusive economic zones; marine environmental protection; sustainable use and conservation of marine living resources; addressing critical uncertainties for the management of the marine environment and climate change; strengthening international, including regional, cooperation and coordination; and sustainable development of small islands;
 - (d) Encourage the application by 2010 of the ecosystem approach, noting the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decision 5/6 of the Conference of Parties to the Convention on Biological Diversity;
 - (g) Assist developing countries in coordinating policies and programmes at the regional and subregional levels aimed at the conservation and sustainable management of fishery resources, and implement integrated coastal area management plans, including through the promotion of sustainable coastal and small-scale fishing activities and, where appropriate, the development of related infrastructure;
31. To achieve sustainable fisheries, the following actions are required at all levels:
- (c) Implement the 1995 Code of Conduct for Responsible Fisheries, taking note of the special requirements of developing countries as noted in its article 5, and the relevant Food and Agriculture Organization of the United Nations (FAO) international plans of action and technical guidelines;
 - (d) Urgently develop and implement national and, where appropriate, regional plans of action, to put into effect the FAO international plans of action, in particular the international plan of action for the management of fishing capacity by 2005 and the international plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing by 2004. Establish effective monitoring, reporting and enforcement, and control of fishing vessels, including by flag States, to further the international plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing;
 - (e) Encourage relevant regional fisheries management organizations and arrangements to give due consideration to the rights, duties and interests of coastal States and the special

requirements of developing States when addressing the issue of the allocation of share of fishery resources for straddling stocks and highly migratory fish stocks, mindful of the provisions of the United Nations Convention on the Law of the Sea and 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, on the high seas and within exclusive economic zones;

- (f) Eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, while completing the efforts undertaken at WTO to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;
- (g) Strengthen donor coordination and partnerships between international financial institutions, bilateral agencies and other relevant stakeholders to enable developing countries, in particular the least developed countries and small island developing States and countries with economies in transition, to develop their national, regional and subregional capacities for infrastructure and integrated management and the sustainable use of fisheries;
- (h) Support the sustainable development of aquaculture, including small-scale

aquaculture, given its growing importance for food security and economic development.

- 32. In accordance with chapter 17 of Agenda 21, promote the conservation and management of the oceans through actions at all levels, giving due regard to the relevant international instruments to:
 - (a) Maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas within and beyond national jurisdiction;
 - (b) Implement the work programme arising from the Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity of the Convention on Biological Diversity, including through the urgent mobilization of financial resources and technological assistance and the development of human and institutional capacity, particularly in developing countries;
 - (c) Develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use; and watershed planning and the integration of marine and coastal areas management into key sectors;

- (d) Develop national, regional and international programmes for halting the loss of marine biodiversity, including in coral reefs and wetlands;
- (e) Implement the RAMSAR Convention, including its joint work programme with the Convention on Biological Diversity, and the programme of action called for by the International Coral Reef Initiative to strengthen joint management plans and international networking for wetland ecosystems in coastal zones, including coral reefs, mangroves, seaweed beds and tidal mud flats.

33. Advance 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, with particular emphasis in the period 2002-2006 on municipal wastewater, the physical alteration and destruction of habitats, and nutrients, by actions at all levels to:

- (c) Elaborate regional programmes of action and improve the links with strategic plans for the sustainable development of coastal and marine resources, noting in particular areas which are subject to accelerated environmental changes and development pressures;

VII. Sustainable development of small island developing States

58. Small island developing States are a special case both for environment and development. Although they continue to take the lead in the path towards sustainable development in their countries, they are increasingly constrained by the interplay of adverse factors clearly underlined in Agenda 21, the Programme of Action for the Sustainable Development of Small Island Developing States and the decisions adopted at the twenty-second special session of the General Assembly. This would include actions at all levels to:

- (b) Further implement sustainable fisheries management and improve financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations, as appropriate, such as the recently established Caribbean Regional Fisheries Mechanism and such agreements as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;
- (c) Assist small island developing States, including through the elaboration of specific initiatives, in delimiting and managing in a sustainable manner their coastal areas and exclusive economic zones and the continental shelf (including, where appropriate, the

continental shelf areas beyond 200 miles from coastal baselines), as well as relevant regional management initiatives within the context of the United Nations Convention on the Law of the Sea and the UNEP regional seas programmes;

- (e) Effectively reduce, prevent and control waste and pollution and their health-related impacts by undertaking by 2004 initiatives aimed at implementing the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities in small island developing States

VIII. *Sustainable development for Africa*

- 62. (i) Develop projects, programmes and partnerships with relevant stakeholders and mobilize resources for the effective implementation of the outcome of the African Process for the Protection and Development of the Marine and Coastal Environment;
- 67. Achieve significantly improved sustainable agricultural productivity and food security in furtherance of the agreed millennium development goals, including those contained in the Millennium Declaration, in particular to halve by 2015 the proportion of people who suffer from hunger, including through initiatives at all levels to:
 - (a) Support the development and implementation of national policies and programmes, including research programmes and development plans of African countries to

regenerate their agricultural sector and sustainably develop their fisheries, and increase investment in infrastructure, technology and extension services, according to country needs. African countries should be in the process of developing and implementing food security strategies, within the context of national poverty eradication programmes, by 2005.

KEYWORDS

Sustainable development, fisheries management, conservation, ecosystem approach, fisheries subsidies, marine protected areas, IPOAs, fishing capacity, IUU Fishing, SIDS, MDGs, CBD, RAMSAR, FAO, UNFSA, marine pollution, conservation, environment, biodiversity, fish stocks, globalization, women

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Plan of Implementation seeks to promote the implementation of Chapter 17 of Agenda 21. It highlights the need for better management of marine and fisheries resources, and, in this context, the need to ratify or accede to, and implement, the United Nations Convention on the Law of the Sea (UNCLOS) and the UNFSA, to implement the FAO Code of Conduct for Responsible Fisheries and the International Plans of Action (IPOAs) for the management of fishing capacity and to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing. It also highlights the need to implement the working programme from the Jakarta Mandate of the CBD, on integrated coastal area management.

It further calls for the elimination of subsidies that contribute to IUU fishing and overcapacity, while completing the efforts undertaken at the WTO to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries.

The Plan of Implementation also sets certain targets in the context of marine and fisheries resources, namely, to encourage the application by 2010 of the ecosystem approach, and to maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and, where possible, not later than 2015.

It also stresses the need to establish representative networks of MPAs by 2012.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Plan of Implementation reaffirms that poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development are overarching objectives of, and essential requirements for, sustainable development. It is unequivocal that

eradicating poverty is the greatest global challenge facing the world today and an indispensable requirement for sustainable development, particularly for developing countries. To meet targets for poverty reduction, it agrees to establish a world solidarity fund to eradicate poverty and to promote social and human development

It emphasizes the need to promote women's equal access to, and full participation, on the basis of equality with men, in decisionmaking at all levels. It further recognizes that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continue to be essential to the cultural, economic and physical well-being of indigenous peoples and their communities. The Plan of Implementation calls for a multi-stakeholder approach for the transfer of technology with regard to small-scale fisheries.

The Plan of Implementation places special emphasis on the developmental needs of small island developing States and the least developed countries, particularly in Africa. It also highlights the need to enhance corporate environmental and social responsibility and accountability.

Global Conference on the Sustainable Development of Small Island Developing States

SHORT TITLE

Barbados Conference on Small Island Developing States

ACRONYM

Barbados SIDS

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To translate Agenda 21 into specific policies, actions and measures to be taken at the national, regional and international levels to enable Small Island Developing States to achieve sustainable development.

NAME OF DECLARATION

Barbados Declaration

PLACE OF DECLARATION

Bridgetown, Barbados

DATE OF DECLARATION

5 May 1994

INITIATING BODY

United Nations General Assembly

PLAN

Programme of Action for the Sustainable Development of Small Island Developing States (Barbados Plan of Action (BPoA))

REGIONAL AGENCIES

Pacific SIDS, Caribbean SIDS and the Atlantic, Indian Ocean, Mediterranean, and the South China Sea (AIMS) SIDS

RECENT UNGA RESOLUTIONS

Resolution 57/262 (adopted at the 57th session of the United Nations General Assembly on 20 December 2002) on "Further implementation of the Programme of Action for the Sustainable Development of Small Island Developing States" decided to convene a comprehensive review meeting in 2004, which would seek a renewed political commitment by all countries to implement the Programme of Action, as called for in the Johannesburg Plan of Implementation, and also decided that it should focus on practical and pragmatic actions for the further implementation of the Programme of Action.

Resolution 58/213 (adopted at the 58th session of the United Nations General Assembly on 23 December 2003) on "Further implementation of the Programme of Action for the Sustainable Development of Small Island Developing States" reiterated the urgent need for the full and effective implementation of the Programme of Action, the Declaration of Barbados and the review document adopted by the General Assembly at its twenty-second special session so as to assist small island developing States in their efforts to achieve sustainable development. It also decided that the International Meeting to be organized in 2004 will seek a renewed political commitment by the international community and will also focus on practical actions required for the further implementation of the Barbados Programme of Action, taking into consideration the new and emerging issues, situations and challenges.

SELECTED PARAGRAPHS

Part One

Affirm that:

I.

1. The survival of small island developing States is firmly rooted in their human resources and cultural heritage, which are their most significant assets; those assets are under severe stress and all efforts must be taken to ensure the central position of people in the process of sustainable development.
2. Sustainable development programmes must seek to enhance the quality of life of peoples, including their health, well-being and safety.
3. Full attention should be given to gender equity and to the important role and contribution of women, as well as to the needs of women and other major groups, including children, youth and indigenous people.

II.

Small island developing States have sovereign rights over their own natural resources. Their biodiversity is among the most threatened in the world and their ecosystems provide ecological corridors linking major areas of biodiversity around the world. They bear responsibility for a significant portion of the world's oceans and seas and their resources. The efforts of small island developing States to conserve, protect and restore their ecosystems deserve international cooperation and partnership.

III.

2. While small island developing States are among those that contribute least to global climate change and sea level rise, they are among those

that would suffer most from the adverse effects of such phenomena and could in some cases become uninhabitable. Therefore, they are among those particularly vulnerable States that need assistance under the United Nations Framework Convention on Climate Change, including adaptation measures and mitigation efforts.

3. Small island developing States share with all nations a critical interest in the protection of coastal zones and oceans against the effects of land-based sources of pollution.
4. Limited freshwater resources, increasing amounts of waste and hazardous substances, and limited facilities for waste disposal combine to make pollution prevention, waste management and the transboundary movement of hazardous materials critical issues for small island developing States.

VI.

There is an urgent need in small island developing States to address the constraints to sustainable development, including scarce land resources, which lead to difficult land and agriculture use decisions; limited fresh water; education and training needs; health and human settlement requirements; inordinate pressures on coastal and marine environment and resources; and limited means available to exploit natural resources on a sustainable basis.

KEYWORDS

SIDS, fisheries, biodiversity, coastal management, marine resources, sea level rise, global warming, sustainable development, hazardous wastes, pollution, gender equality, women, UNFCCC

RELEVANCE TO FISHERIES/ FISHWORKERS

SIDS bear responsibility for a significant portion of the world's oceans and seas and their resources. At the same time, their ecosystems provide ecological corridors linking major areas of biodiversity around the world. However, the biodiversity of SIDS is among the most threatened in the world by, among other things, sea level rise and marine pollution. The protection, conservation and restoration of coastal and marine ecosystems of SIDS, as called for in the Declaration, is thus very important from a fisheries perspective.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Declaration unequivocally acknowledges the central position of people in the process of sustainable development, and emphasizes that sustainable development programmes must seek to enhance the quality of life of peoples, including their health, well-being and safety. It thus seeks to balance and protect environmental, developmental and livelihood concerns, vital from a gender and small-scale fisheries perspective.

Programme of Action for the Sustainable Development of Small Island Developing States

SHORT TITLE

Barbados Programme of Action

ACRONYM

BPoA

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

To address the special challenges and constraints facing small island developing States by means of actions and policies that should be implemented over the short, medium and long terms.

WORKING OF THE INSTRUMENT

Decision-making body

Economic and Social Council (ECOSOC) and through this to the second committee of the General Assembly of the United Nations

Monitoring and implementation

Commission on Sustainable Development (CSD)

Periodicity of meetings

The CSD meets once every year. (There have been 13 sessions of the CSD till April 2005.)

Participation in meetings

Monitoring and implementation

Voting rights: Thirteen members are

elected from Africa, eleven from Asia, ten from Latin America and the Caribbean, six from Eastern Europe, and thirteen from Western Europe and others, to the CSD. One-third of the members are elected annually and outgoing members are eligible for re-election.

Observers: To participate in official meetings of the CSD as a representative of the major groups, each individual participant must belong to, or be associated with, an international, regional, sub-regional, or national non-governmental, non-profit, or voluntary organization that is accredited, (meaning that it is in consultative status) with the ECOSOC, or on the CSD Roster.

In February 2004, ECOSOC decided that non-governmental organizations and other major groups accredited to the World Summit on Sustainable Development can participate in the first two-year implementation cycle of the Commission on Sustainable Development. The major groups of civil society, as defined by Agenda 21, are women, children and youth, indigenous people, non-governmental organizations, local authorities, workers and trade unions, business and industry, scientific and technological communities, and farmers. These groups have participated in meetings of the Commission on Sustainable Development (CSD) as representatives of a variety of different organizations who have been accredited to the United Nations.

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RECENT UNGA RESOLUTIONS

Resolution 57/262 (adopted at the 57th session of the United Nations General Assembly on 20 December 2002) on "Further implementation of the Programme of Action for the Sustainable Development of Small Island Developing States" decided to convene a comprehensive review meeting in 2004, which would seek a renewed political commitment by all countries to implement the Programme of Action, as called for in the Johannesburg Plan of Implementation, and also decided that it should focus on practical and pragmatic actions for the further implementation of the Programme of Action.

Resolution 58/213 (adopted at the 58th session of the United Nations General Assembly on 23 December 2003) on "Further implementation of the Programme of Action for the Sustainable Development of Small Island Developing States" reiterated the urgent need for the full and effective implementation of the Programme of Action, the Declaration of Barbados and the review document adopted by the General Assembly at its twenty-second special session so as to assist small island developing States in their efforts to achieve sustainable development and also approved the provisional rules of procedure of the International Meeting

(to be held in 2004) to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States.

SELECTED PARAGRAPHS

Preamble

13. Sharing a common aspiration for economic development and improved living standards, small island developing States are determined that the pursuit of material benefits should not undermine social, religious and cultural values or cause any permanent harm to either their people or their land and marine resources, which have sustained island life for many centuries. In Agenda 21, the international community committed itself to:

- (a) Adopt and implement plans and programmes to support the sustainable development and utilization of the marine and coastal resources of small island developing States, including meeting essential human needs, maintaining biodiversity and improving the quality of life for island people;
- (b) Adopt measures that will enable small island developing States to cope effectively, creatively and sustainably with environmental change, as well as to mitigate impacts on and reduce threats posed to marine and coastal resources.

Part IV

Coastal and marine resources

Basis for action

25. Sustainable development in small island developing States depends largely on coastal and marine resources, because their small land

area means that those States are effectively coastal entities. Population and economic development—both subsistence and cash—are concentrated in the coastal zone. The establishment of the 200-mile exclusive economic zone has vastly extended the fisheries and other marine resources available to small island developing States. Their heavy dependence on coastal and marine resources emphasizes the need for appropriate and effective management.

A. National action, policies and measures

- (ii) Design comprehensive monitoring programmes for coastal and marine resources, including wetlands, in order to determine shoreline and ecosystem stability, and also document and apply, as a basis for integrated coastal zone planning and decision-making, traditional knowledge and management practices that are ecologically sound and include the participation of local communities.
- (iii) Develop and/or strengthen national capabilities for the sustainable harvesting and processing of fishery resources and provide training and awareness programmes for the managers (Government and local communities) of coastal and marine resources.
- (iv) Ratify and/or adhere to regional and international Conventions concerning the protection of coastal and marine resources and combat unsustainable fishing and related practices.

B. Regional Action:

- (i) Develop and/or strengthen the capacity of regional organizations to undertake activities in coastal and marine areas, including research into commercial and non-commercial fisheries with a view to sustainable harvesting and utilization, as well as surveys on reef, estuary, wetland and lagoon resources. Also monitor and promote innovative ways to sustainably develop territorial waters and exclusive economic zones, including providing support for aquaculture, mariculture, coral reef and mangrove programmes.
- (iv) Develop programmes to enhance negotiating and related skills for the management and exploitation of coastal and marine resources, including the negotiation of fisheries agreements.

C. International Action,

- (ii) Cooperate in facilitating mutually advantageous fishing agreements between small island developing States and foreign fishing groups; take account of the concerns and characteristics of those States within the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks; and encourage and facilitate the full participation of small island developing States in the Conference and in the implementation of the Conference outcomes.
- (iv) Support small island developing States in establishing national and regional capabilities for the effective surveillance and

monitoring of activities within their exclusive economic zones, setting up regional and other joint-venture fishing enterprises, developing inventories of marine resources and regional approaches to the sustainable management of their exclusive economic zones, and strengthening regional marine research centres.

KEYWORDS

Agenda 21, aquaculture, biodiversity, capacity building, conservation, coral reefs, customary practices, environment, equitable sharing, fisheries agreements, fisheries, fishing communities, ICZM, indigenous communities, indigenous technology, livelihoods, local communities, management, marine pollution, marine resources, SIDS, sustainable development, sustainable use, traditional knowledge, monitoring and surveillance

RELEVANCE TO FISHERIES/ FISHWORKERS

The BPoA, recognizing the heavy dependence of SIDS on coastal and marine resources, emphasizes the need for their appropriate and effective management. It calls for strengthening of national capabilities for the

sustainable harvesting and processing of fishery resources.

It calls for co-operation in facilitating mutually advantageous fishing agreements between SIDS and foreign fishing groups, taking account of the provision of the UNFSA. It further calls for international support in establishing national and regional capabilities for the effective surveillance and monitoring of activities within their exclusive economic zones.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The preamble to BPoA stresses that pursuit of material benefits should not undermine social, religious and cultural values or cause any permanent harm to either their people or their land and marine resources, which have sustained island life for many centuries.

The BPoA further stresses the need for the involvement of non-governmental organizations, women, indigenous people and other major groups, as well as fishing communities and farmers, in the conservation and sustainable use of biodiversity. Significantly, it calls for integrated coastal zone planning that takes into account traditional knowledge and management practices, and for the participation of local communities.

**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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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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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Relevant to Fisheries and Fishing
Communities:
A Handbook**

Theme III
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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

Oceans and Fisheries Management

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.

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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.

Oceans and Fisheries Management

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

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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

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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

Periodicity of meetings

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

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.”

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:

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

Monitoring and implementation

FAO through the COFI (Committee on Fisheries)

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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

Secretariat

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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

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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)

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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.

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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

Oceans and Fisheries Management

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

NUMBER

59/25

DATE OF ADOPTION

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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



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

Theme IV
Environmental Pollution



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Relevant to Fisheries and Fishing
Communities:
A Handbook**

Theme IV
Environmental Pollution

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Introduction

This theme provides information on instruments relating to pollution of the marine environment by ships and land-based sources, and on climate change and the ozone layer. Included are eight conventions and a global programme of action.

Environmental pollution has now become an important global issue, gaining rapid importance since the United Nations Conference on the Human Environment (UNCHE, 1972). In the case of the marine environment, the International Maritime Organization (IMO) is the lead organization responsible for formulating a number of international conventions towards the specific protection of the marine environment.

The dumping into oceans of wastes (oil, untreated sewage and heavy metals) by industrialized countries was one of the primary concerns for marine environment pollution in the 1970s, which led to the signing of the London Dumping Convention (LDC) in 1972. In 1993, a review of this Convention was undertaken, which later led to the adoption of the 1996 Protocol to the Convention, which asks States to “individually and collectively protect and preserve the marine environment from all sources of pollution and take effective measures, according to their scientific, technical and economic capabilities, to prevent, reduce and, where practicable, eliminate pollution caused by dumping or incineration at sea of wastes or other matter.”

The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. It is a combination of two treaties adopted in 1973 and 1978, respectively, and updated by amendments through the years.

The International Convention for the Control and Management of Ship’s Ballast Water and Sediments (Globallast), 2004, is another important convention that aims to control invasive alien species that are spread by the transport and exchange of ballast water and sediments by ships. Alien species that are transported across natural barriers are capable of colonizing and exterminating local fauna and flora, and may endanger fisheries either by directly exterminating commercially important species or indirectly, by affecting their habitat and/or food/prey.

The United Nations Environment Programme (UNEP) has been in the forefront of formulating multilateral environmental treaties. The Vienna Convention for the Protection of the Ozone Layer, 1985, aims to protect human health and the environment from the adverse effects to the ozone layer. It provides a list of substances that can modify the chemical and physical properties of the ozone layer, of which chlorofluorocarbons (CFCs), commonly used as refrigerants in fishing vessels, are important.

The United Nations Framework Convention on Climate Change (UNFCCC, 1992) is concerned with global warming and the consequent rise in sea levels that may result in the flooding of coastal areas, and submerging islands, which could adversely affect coastal communities, including fishing communities.

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention, 1989), the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention, 1998) and the Stockholm Convention on Persistent Organic Pollutants (POPs) (Stockholm Convention, 2001) together provide an international framework for the environmentally sound management of hazardous chemicals throughout their life cycles. With illegal dumping of hazardous wastes into marine areas becoming a major problem, and the growing knowledge that many chemicals, including pesticides, that are widely used on land find their way into the oceans and contaminate fish, the global toxics treaties assume great significance.

Another problem is the pollution of coastal waters by land-based activities such as aquaculture, sewage disposal, and physical alteration and destruction of habitat. This was addressed by the Intergovernmental Conference to Adopt a Global Programme of Action (PoA) for the Protection of the Marine Environment from Land-Based Activities (Washington Conference, 1995), which came up with the Global PoA for the Protection of the Marine Environment from Land-Based Activities (GPA-LBA), a non-binding instrument. The Regional Seas Programme of UNEP is the monitoring and implementing agency for this instrument.

Since many fisheries are located near the coast, and artisanal and small-scale fishers often fish close to the coastline, pollution of the coastal areas and destruction of coastal habitats are matters of grave concern for artisanal and small-scale fisheries. The GPA-LBA attempts to mitigate such threats to the marine environment from land-based activities by creating guidelines for the disposal of sewage, physical alteration of habitat, and so on.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972

SHORT TITLE

London Dumping Convention

ACRONYM

LDC

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To individually and collectively promote the effective control of all sources of pollution of the marine environment.

To take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

CONTENTS

22 Articles

DATE OF ADOPTION

13 November 1972

PLACE OF ADOPTION

London, United Kingdom

DATE OF ENTRY INTO FORCE

30 August 1975

RATIFICATIONS

81 (LDC), 20 (1978 amendment) and 21 for the 1996 Protocol (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

- The 1978 amendments on incineration
- The 1978 amendments on disputes
- The 1980 amendments on list of substances
- The 1989 amendments on permits
- The 1993 amendments on banning of dumping of low-level radioactive wastes; phasing out of dumping of industrial wastes; banning of incineration at sea of industrial wastes

The 1996 Protocol to the London Dumping Convention asks States to “individually and collectively protect and preserve the marine environment from all sources of pollution and take effective measures, according to their scientific, technical and economic capabilities, to prevent, reduce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes or other matter”. The Protocol has not yet entered into force (it requires ratification from 26 countries, 15 of whom must be contracting parties of the 1972 convention).

INITIATING BODY

Inter-Governmental Conference on the Convention on the Dumping of Wastes at Sea, at the initiative of the Government of United Kingdom

WORKING OF THE INSTRUMENT

Decision-making body

Consultative Meeting of the Contracting Parties

Subsidiary bodies

Scientific Group

Joint Group of Experts on Scientific Aspects of Marine Environmental Protection (GESAMP)

Periodicity of meetings

The contracting parties meet annually.
Scientific group meets annually.

Participation in meetings

Meeting of Parties

Voting rights: Countries party to the convention

Observer status: Countries not party to the convention, intergovernmental organizations and non-governmental organization

Scientific Group: Attendance at these meetings is open to representatives of the Governments of Member States (that is, Contracting Parties), Governments of Observer States (that is, Non-Contracting Parties) and Government and Non-Government Organizations afforded observer status.

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GUIDELINES

- Guidelines for the assessment of wastes or other matter that may be considered for dumping
- Guidelines on the national implementation of the 1996 Protocol to the London Dumping Convention 1972
- Waste-specific guidelines for dredged material

Environmental Pollution

- Waste-specific guidelines for sewage Sludge
- Waste-specific guidelines for fish offal & related material
- Waste-specific guidelines for vessels proposed for disposal at sea
- Waste-specific guidelines for platforms and other man-made objects
- Waste-specific guidelines for inert materials
- Waste-specific guidelines for organic wastes
- Waste-specific guidelines for bulky, inert materials
- Guidelines for the application of the *de minimis* concept under the London Convention

REGIONAL INSTRUMENTS

- Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), Paris, 1992
- Convention on the Protection of the Marine Environment of the Baltic Sea Area (1992 Helsinki Convention), Helsinki, 1992

Under the UNEP Regional Seas Programme

- The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) 1976
- The Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol) 1976
- Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait Convention) 1978
- Protocol on the Protection of the Black Sea Marine Environment Against Pollution by Dumping; adopted 1992

Environmental Pollution

- 1986 Protocol for the Prevention of Pollution of the South Pacific Region by Dumping

REGIONAL AGENCIES

UNEP Regional Seas Programme

SELECTED ARTICLES

Article IV

1. In accordance with the provisions of this Convention Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below:
 - (a) the dumping of wastes or other matter listed in Annex I is prohibited;
 - (b) the dumping of wastes or other matter listed in Annex II requires a prior special permit;
 - (c) the dumping of all other wastes or matter requires a prior general permit.
2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in sections B and C of that Annex.
3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organization.

Article V

1. The provisions of article IV shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or

a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the organization.

Article VIII

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect in the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organization. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to co-operation in the field of monitoring and scientific research.

Article XII

The Contracting Parties pledge themselves to promote, within the competent specialized agencies and other international bodies, measures to protect the marine environment against pollution caused by:

- (a) hydrocarbons, including oil and their wastes;

- (b) other noxious or hazardous matter transported by vessels for purposes other than dumping;
- (c) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;
- (d) radio-active pollutants from all sources, including vessels;
- (e) agents of chemical and biological warfare;
- (f) wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organization, the codification of signals to be used by vessels engaged in dumping.

KEYWORDS

IMO, pollution, dumping, hazardous wastes, wastes, dispute resolution, radioactive wastes, precautionary principle, convention, MARPOL, LDC

RELEVANCE TO FISHERIES/ FISHWORKERS

Pollution caused by dumping of wastes at sea is of increasing concern to fishworkers. Wastes such as oil, heavy metals and untreated sewage may be directly toxic to some marine organisms. Release of toxic materials can result in the mass kill of fish in the short term, or it can result in the slow poisoning of fish in the long term, which may result in reduced catch, apart from the disruption of the food web and accumulation of toxics in the fish, which make them unfit for consumption by humans. Eggs and larvae of many commercially important marine organisms are particularly sensitive to the toxic effects of pollutants,

as are organisms living at the ocean surface and on the seabed, where wastes tend to accumulate.

The London Dumping Convention has a global character, and contributes to the international control and prevention of marine pollution. The convention defines “dumping” as the deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures, as well as the deliberate disposal of these vessels or platforms themselves.

The convention prohibits the dumping of certain hazardous materials (wastes listed in Annex I – black list), requires a prior special permit for the dumping of a number of other identified materials, and a prior general permit for other wastes or matter (wastes listed in Annex II – grey list). Article V says that when dumping is done because of threat to safety of human beings, it should be done in a manner that causes minimum damage to marine life.

Article XII of the LDC asks the contracting parties to co-operate to protect the marine environment by pollution from various sources such as oils, hazardous wastes being transported, etc. This aspect is once again emphasized in Article 194 of the 1982 UNCLOS.

According to Agenda 21, para 17.18, dumping-at-sea activities contribute to 10 per cent of marine pollution, while para 17.30b calls for: (i) Supporting wider ratification, implementation and participation in relevant Conventions on dumping at sea, including early conclusion of a future strategy for the London Dumping Convention; and (ii) Encouraging the London Dumping Convention Parties to take appropriate steps to stop ocean dumping and incineration of hazardous substances.

International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto

SHORT TITLE

MARPOL Convention

ACRONYM

MARPOL

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the convention.

CONTENTS

- 20 Articles and six technical Annexes (Annex III – VI are voluntary)
 - Annex I: Regulations for the Prevention of Pollution by Oil
 - Annex II: Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk
 - Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form
 - Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships
 - Annex V: Regulations for the Prevention of Pollution by Garbage from Ships
 - Annex VI: Regulations for the Prevention of Air Pollution from Ships

DATE OF ADOPTION

2 November 1973 and 17 February 1978 (Protocol)

PLACE OF ADOPTION

London, United Kingdom

DATE OF ENTRY INTO FORCE

2 October 1983

RATIFICATIONS

- 130 (MARPOL 1973/78 and Annex I and II)
- 115 (MARPOL 1973/78 Annex III)
- 100 (MARPOL 1973/78 Annex IV)
- 119 (MARPOL 1973/78 Annex V)
- 20 (MARPOL Protocol 1997 Annex VI) (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Amendments (1984, 1985, 1987, 1989, 1990, 1991, 1992, 1994, 1995, 1996, 1997, 1999, 2000, 2001 and 2003) and Protocol I, II and 1997

INITIATING BODY

International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Decision-making body

Marine Environment Protection Committee (MEPC) of the IMO

Subsidiary bodies

The Sub-Committees on Bulk Liquids and Gases and Flag State Implementation

Periodicity of meetings

MEPC: Regular sessions are once a year.

Participation in meetings

Decision-making body: MEPC

Voting rights: All member states of IMO

Observers: NGOs which have been granted consultative status with IMO and IGOs, which have concluded agreements of co-operation with IMO, are also represented at MEPC sessions.

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GUIDELINES

Guidelines for the Designation of Special Areas under MARPOL 73/78 and Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas

REGIONAL AGREEMENTS

Protocol concerning cooperation in preventing pollution from ships and, in cases of emergency, combating pollution in the Mediterranean Sea (Prevention and Emergency Protocol), 2002 Convention on the protection of the Mediterranean Sea against pollution (Barcelona Convention) and Protocol for the prevention of pollution of the Mediterranean Sea by dumping from ships and aircraft, 1977

ADDITIONAL INFORMATION

The Protocol of 1978 relating to the 1973 International Convention for the Prevention of Pollution from Ships (1978 MARPOL Protocol) was adopted at a Conference on Tanker Safety and Pollution Prevention in February 1978, held in response to a spate of tanker accidents in 1976-1977. (Measures

relating to tanker design and operation were also incorporated into a Protocol of 1978 relating to the 1974 Convention on the Safety of Life at Sea, 1974.)

As the 1973 MARPOL Convention had not yet entered into force, the 1978 MARPOL Protocol absorbed the parent Convention. The combined instrument is referred to as the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

SELECTED ARTICLES

Article 2

Definitions

- (2) "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present convention.
- (4) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

Article 8

Reports on Incidents Involving Harmful Substances

- (1) A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

KEYWORDS

Pollution, compensation, compliance, control, discharge, harmful substances, incineration, marine environment, MARPOL, natural resources, oil, pollution,

Environmental Pollution

precautionary approach, regulations, special areas, ships

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention covers pollution by oil, chemicals, harmful substances in packaged form, sewage and garbage. The Convention includes regulations aimed at preventing and minimizing pollution from ships—both accidental pollution and that from routine operations. Better implementation of this convention will have clear benefits for fishers.

In Annexes I, II and V, MARPOL 73/78 defines certain sea areas as “special areas” in which, for technical reasons relating to their oceanographical and ecological condition and to their sea traffic, the adoption of special mandatory methods for the prevention of sea pollution is required. Under the Convention, these special areas are provided with a higher level of protection than other areas of the sea.

A Particularly Sensitive Sea Area (PSSA) is an area that needs special protection through action by IMO because of its significance for recognized ecological or socio-economic or scientific reasons, and which may be vulnerable to damage by international maritime activities.

There are currently six designated PSSAs: the Great Barrier Reef, Australia (designated a PSSA in 1990); the Sabana-Camagüey Archipelago in Cuba (1997); Malpelo Island, Colombia (2002); Around the Florida Keys, United States (2002); the Wadden Sea, Denmark, Germany, Netherlands (2002); and Paracas National Reserve, Peru (2003).

Under Annex I on “Regulations for the prevention of pollution by oil”, Regulation

10 identifies the following special areas with strict controls on discharge of oily wastes: Mediterranean Sea area, Baltic Sea area, Black Sea Area, Red Sea area, “Gulfs” area, Gulf of Aden area, Antarctic area and North West European waters.

In Annex II on “Regulations for the prevention of pollution by Noxious Liquid substances”, Regulation 1 identifies the following special areas with strict controls on tank washing and residue discharge procedures: Baltic Sea area, Black Sea Area and Antarctic area.

In Annex V on “Regulations for the prevention of pollution by Garbage”, Regulation 5 identifies the following special areas, in which there are strict controls on disposal of garbage: Mediterranean Sea area, Baltic Sea area, Black Sea area, Red Sea area, “Gulfs” area, North Sea, Antarctic area (south of latitude 60 degrees south) and Wider Caribbean region, including the Gulf of Mexico and the Caribbean Sea.

When Annex VI on “Prevention of air pollution by ships”, enters into force, it will establish the Baltic Sea area as a special “SOx Emission Control Area” with more stringent controls on sulphur emissions from ships. The North Sea will also become a special SOx emission control area.

The FAO Code of Conduct for Responsible Fisheries asks owners, charterers and managers of fishing vessels to ensure that their vessels are fitted with appropriate equipment required by MARPOL 73/78, and that the crew of fishing vessels should be conversant with proper shipboard procedures in order to ensure that discharges do not exceed the levels set by MARPOL 73/78.

Vienna Convention for the Protection of the Ozone Layer

SHORT TITLE

Vienna Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.

CONTENTS

21 Articles and two Annexs (I and II)

DATE OF ADOPTION

22 March 1985

PLACE OF ADOPTION

Vienna

OPENED FOR SIGNATURE

21 September 1985

DATE OF ENTRY INTO FORCE

22 September 1988

SIGNATORIES

28 (Vienna Convention) and 46 (Montreal Protocol) (as on 19 January 2005)

RATIFICATIONS

189 (Vienna Convention)

188 (Montreal Protocol)

175 (London Amendment)

164 (Copenhagen Amendment)

123 (Montreal Amendment)

86 (Beijing Amendment)

(as on 19 January 2005)

ADDITIONAL INSTRUMENTS

Montreal Protocol on Substances that Deplete the Ozone Layer (London Amendment, Copenhagen Amendment, Montreal Amendment and Beijing Amendment of the Protocol)

INITIATING BODY

United Nations Environment Programme (UNEP)

WORKING OF THE INSTRUMENT

Decision-making body

Vienna Convention: Conference of Parties (COP)

Montreal Protocol: Meeting of Parties (MOP)

Subsidiary bodies

Meeting of Ozone Research Managers

Monitoring and implementation

Vienna Convention:

- Implementation Committee
- Open-Ended Working Group
- Ad hoc Working Group of Legal Experts on Non-Compliance Procedure

Montreal Protocol:

- Scientific Assessment Panel
- Technology and Economics Assessment Panel (TEAP)
- Environmental Effects Assessment Panel

Periodicity of meetings

COP meets every three years (every two years till 1993, six meetings of the COP have been held till 2004).

MOP meets annually. (Fourteen meetings of the MOP have been held till 2004.)

Environmental Pollution

Participation in meetings

Decision-making body: COP and MOP

Voting Rights: States party to the convention

Observers: The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Convention, may be represented at meetings of the Conference of the Parties by observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

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SELECTED ARTICLES

Article 2: General obligations

1. The Parties shall take appropriate measures in accordance with the provisions of this Convention and of those protocols in force to which they are party to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.
2. To this end the Parties shall, in accordance with the means at their disposal and their capabilities:
 - (a) Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer;
 - (b) Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;
 - (c) Co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes;
 - (d) Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.

3. The provisions of this Convention shall in no way affect the right of Parties to adopt, in accordance with international law, domestic measures additional to those referred to in paragraphs 1 and 2 above, nor shall they affect additional domestic measures already taken by a Party, provided that these measures are not incompatible with their obligations under this Convention.
4. The application of this article shall be based on relevant scientific and technical considerations.

KEYWORDS

Ozone, CFC, human health, environment, ecosystems, climate change, convention, technology, transfer of technology, Montreal Protocol

RELEVANCE TO FISHERIES/ FISHWORKERS

The Vienna Convention calls for a precautionary approach towards the use of substances that are likely to modify the ozone layer. It enjoins States to do research and systematic observations on the effects of ultraviolet-B radiation on (a) agricultural crops, forests and other terrestrial ecosystems and (b) the aquatic food web and fisheries, as well as possible inhibition of oxygen production by marine phytoplankton.

According to Annex I of the Convention, the major scientific issues are: (a) Modification of the ozone layer which would result in a change in the amount of

solar ultra-violet radiation having biological effects (UV-B) that reaches the Earth's surface and the potential consequences for human health, for organisms, ecosystems and materials useful to mankind; and (b) Modification of the vertical distribution of ozone, which could change the temperature structure of the atmosphere and the potential consequences for weather and climate.

The annex also lists chemical substances of natural and anthropogenic origin, (not listed in order of priority), that are thought to have the potential to modify the chemical and physical properties of the ozone layer. These include chlorofluorocarbons that are used in refrigeration systems. The Montreal Protocol was designed so that the phase-out schedules could be revised on the basis of periodic scientific and technological assessments, to introduce other kinds of control measures and to add new controlled substances to the list.

It is worth mentioning that the FAO Code of Conduct for Responsible Fisheries makes specific mention of the need for vessels to have equipments that would reduce emissions of ozone-depleting substances (Section 8 of the 1995 Code of Conduct "Protection of the Atmosphere"). The Code of Conduct also calls upon owners or managers of fishing vessels to take appropriate action to refit existing vessels with alternative refrigerants to CFCs, HCFCs and halons. It also asks them to follow international guidelines for the disposal of these substances.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

SHORT TITLE

Basel Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To protect by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes. This is carried out keeping the three key objectives in mind:

- to minimize the generation of hazardous wastes in terms of quantity and hazardousness;
- to dispose them as close to the source of generation as possible;
- to reduce the movement of hazardous wastes.

CONTENTS

Preamble, 29 Articles and 9 Annexes

DATE OF ADOPTION

22 March 1989

PLACE OF ADOPTION

Basel, Switzerland

DATE OF ENTRY INTO FORCE

5 May 1992

SIGNATORIES

52 (Three of them have not ratified)

RATIFICATIONS

164 (as of 23 February 2005)

ADDITIONAL INSTRUMENTS

Amendment (Basel Ban), which bans hazardous wastes exports for final disposal and recycling from what are known as Annex VII countries. (Amendment has not entered into force - - 54 countries have ratified it so far.)

Protocol (Basel Protocol on Liability and Compensation—not entered into force), asks States to provide for a comprehensive regime for liability and for adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes and their disposal including illegal traffic in those wastes. (Number of signatories: 13, Number of parties: 4)

INITIATING BODY

United Nations Environment Programme

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties

Subsidiary bodies

Expanded Bureau

Open-ended Working Group, and

Compliance Committee

Periodicity of meetings

COP: Meetings are held every other year. (There have been seven meetings till December 2004)

OEWG: Meets up to three times between meetings of the COP (there have been three meetings organized till May 2004)

Participation in meetings

Decision-making body: COP

Voting Rights: Countries party to the convention

Observers: The UN and its specialized agencies, as well as any states not party to the Convention, are invited to participate as observers at meetings of the COP. Any other body or agency, whether international or national, governmental or non-governmental, qualified in the matter of hazardous wastes or other wastes may participate as observers unless one-third of the Parties object.

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PLAN

Strategic Plan for the Implementation of the Basel Convention 2000-2010

REGIONAL AGREEMENTS

OECD Council Decision C(2001)107/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations adopted on 14 June 2001 and on 28 February 2002
Kuwait Regional Convention for co-operation on the Protection of the Marine Environment from Pollution

SELECTED ARTICLES

Article 4

General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment; and

(d) ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the

Environmental Pollution

environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement.

KEYWORDS

Hazardous wastes, wastes, transboundary, waste management, transportation, illegal traffic, dispute resolution, compliance, enforcement, guidelines, imports, exports, Basel Convention

RELEVANCE TO FISHERIES/ FISHWORKERS

The purpose of the Convention is to control and reduce transboundary movements of specified wastes, minimize the generation of hazardous wastes, and assist developing countries in the environmentally sound management of such wastes. The Convention makes special reference to the Parties' responsibilities with respect to the protection and preservation of the marine environment in the context of the Convention.

It defines "environmentally sound management (ESM) of hazardous wastes or other wastes" as all practicable steps taken to ensure that hazardous wastes or other wastes are managed in a manner that will protect human health and the environment against the adverse effects that may result from such wastes.

ESM means addressing the issue through an "integrated life-cycle approach",

which involves strong controls from the generation of a hazardous waste to its storage, transport, treatment, reuse, recycling, recovery and final disposal.

Under the Convention, transboundary movements of hazardous wastes or other wastes can take place only upon prior written notification by the State of export to the competent authorities of the States of import and transit (if appropriate).

It calls upon Parties to ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects.

The Convention also considers illegal traffic in hazardous wastes or other wastes as criminal. Article 13 asks Parties to inform other States immediately, whenever it comes to their knowledge, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States. The same Article also calls for annual reports on such accidents as well as disposal operations within the territories of the state and the measures taken by the Party for the reduction and/or elimination of the production of hazardous wastes. Annex IV of the Convention, on disposal operations, includes releases of toxics into seas/oceans. All this is of direct relevance to the fisheries sector.

United Nations Framework Convention on Climate Change

SHORT TITLE

Rio Convention (The Convention was opened for signature at the Rio summit in June 1992.)

ACRONYM

UNFCCC

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

- To stabilize the greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level to be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change;
- To ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

CONTENTS

26 Articles and three Annexes

DATE OF ADOPTION

9 May 1992

PLACE OF ADOPTION

New York

OPENED FOR SIGNATURE

4 June 1992

DATE OF ENTRY INTO FORCE

21 March 1994

SIGNATORIES

166 (UNFCCC) (as on 21 March 2005)
84 (Kyoto Protocol) (as on 21 March 2005)

RATIFICATIONS

189 (UNFCCC) (as of 21 March 2005)
145 (Kyoto Protocol) (as of 21 March 2005)

ADDITIONAL INSTRUMENTS

Kyoto Protocol (adopted on 11 December 1997, entered into force on 16 February 2005) shares the concerns and principles of the Convention, and builds on these by adding new commitments, which are stronger and far more complex and detailed than those in the Convention. It assigns national targets to industrialized countries (Annex I) and offers additional flexibility to countries with economies in transition.

INITIATING BODY

The Intergovernmental Negotiating Committee (INC). The INC negotiated the Convention and fell directly under the UN General Assembly.

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Subsidiary bodies

Subsidiary Body for Scientific and Technological Advice (SBSTA)

Subsidiary Body for Implementation (SBI)

Constituted bodies (January 2005)

Clean Development Mechanism (CDM)
Executive Board

Consultative Group of Experts on National Communications from Non-Annex I Parties (CGE)

Expert Group on Technology Transfer (EGTT)

Environmental Pollution

Advisory bodies

In the process of being set up.

Periodicity of meetings

COP meets once a year (as of February 2005, the Conference of Parties have met ten times)

Participation in meetings

Decision-making body: COP

Voting rights: States party to the Convention

Observers: According to Article 7 of the Convention, "6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties."

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SELECTED ARTICLES

Article 3

Principles

In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, *inter alia*, by the following:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.
2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.
3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant

sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

KEYWORDS

Climate change, UNEP, UNFCCC, greenhouse effect, coastal state, islands, oceans, developing countries, energy, environmental management, sea-level rise, SIDS, coastal areas, marine ecosystems, forests, industries, technology, convention, Kyoto Protocol, precautionary measures

RELEVANCE TO FISHERIES/ FISHWORKERS

Human activities release greenhouse gases (e.g. carbon dioxide, methane, nitrous oxides, halons) into the atmosphere. Rising levels of greenhouse gases are absorbing more infrared radiation. This is resulting in increased global temperatures and change in climatic regimes. The United Nations Framework Convention on Climate Convention is the foundation of global efforts to combat global warming.

It sets an “ultimate objective” of stabilizing “greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic (human-induced) interference with the climate system.” The objective does not specify what these concentrations should be, only that they be at a level that is not dangerous.

It directs that “such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner.” This

highlights the main concerns about food production—probably the most climate-sensitive human activity—and economic development.

The Convention tries to make sure that any sacrifices made in protecting our shared atmosphere will be shared fairly among countries in accordance with their “common but differentiated responsibilities and respective capabilities and their social and economic conditions”. It notes that the largest share of historical and current emissions originates in developed countries. Its first basic principle is that these countries should take the lead in combating climate change and its adverse impacts. Specific commitments in the treaty relating to financial and technological transfers apply only to the very richest countries. The Convention emphasizes the need for education, training and public awareness related to climate change.

The Protocol sets legally binding targets and timetables for cutting developed country emissions. The Protocol innovates by giving Parties credit for reducing emissions in other countries. It establishes an emission-trading regime, which will allow industrialized countries to buy and sell emission credits amongst themselves.

With reference to fisheries, it is expected that the global yield from marine fisheries should remain unchanged by global warming. The principal effects will be felt at the national and local levels, as the mix of species changes and people respond by relocating fisheries. These possible local effects could threaten the food security of countries that are highly dependent on fish. In general, some of the positive effects of climate change could include longer growing seasons, lower natural winter mortality, and faster growth rates at higher latitudes. The negative ones could include upsets in

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established reproductive patterns, migration routes, and ecosystem relationships.

The mean sea level is expected to rise, resulting in the flooding of coastal areas and low-lying islands. Higher sea levels could also cause extreme events such as high tides, storm surges, and seismic sea waves (tsunamis) to reap more destruction. Sea-level rise could also damage key economic sectors such as fisheries and aquaculture in coastal areas. Rising sea levels could also invade coastal freshwater supplies, placing additional stress on coastal communities, including fishing communities, in obtaining freshwater. Climate change is also expected to affect human health—studies using remote sensing have shown a correlation between cholera cases and sea surface temperature in the Bay of Bengal. There is also evidence of an association between El Niño (which warms the waters of the southwestern Pacific) and epidemics of malaria and dengue. Enhanced production of aquatic pathogens and biotoxins may jeopardize

the safety of seafood. Warmer waters would also increase the occurrence of toxic algal blooms. Settlements that depend heavily on commercial fishing, subsistence agriculture and other natural resources are particularly vulnerable.

Concern for climate change and sea-level rise is high in the case of the small island developing States. Their concerns include the flooding of coastal areas as well as the damage to coral reefs, and the alteration of the distribution of the zones of upwelling which could affect both subsistence and commercial fisheries production. In the national, regional and international action for this section in the Programme of Action for the sustainable development of SIDS (Barbados Plan of Action), the call is for early ratification of the UNFCCC, monitoring and data collection on sea-level rise, integrated coastal management, assessment of the impact of climate change on marine resources, and access to technology and other resources to help the SIDS to combat climate change.

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

SHORT TITLE

Rotterdam Convention

ACRONYM

PIC

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

- To promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and
- To contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

CONTENTS

- 30 Articles and five annexes
 - Annex I: Information requirements for notifications made pursuant to Article 5
 - Annex II: Criteria for listing banned or severely restricted chemicals in Annex III
 - Annex III: Chemicals subject to the prior informed consent procedure

- Annex IV: Information and criteria for listing severely hazardous pesticide formulations in Annex III
- Annex V: Information requirements for export notification

DATE OF ADOPTION

10 September 1998

PLACE OF ADOPTION

Rotterdam, The Netherlands

OPENED FOR SIGNATURE

11 September 1998

DATE OF ENTRY INTO FORCE

24 February 2004

SIGNATORIES

73 (as of 24 March 2005)

RATIFICATIONS

86 (as of 24 March 2005)

INITIATING BODY

United Nations Environment Programme (UNEP) and Food and Agriculture Organization of the United Nations (FAO)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Subsidiary bodies

Chemicals Review Committee

Periodicity of meetings

The meeting of the Conference of Parties (COP) will be held once a year. The first COP was held in September 2004.

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Participation in meetings

Decision-making body: COP

Voting rights: States party to the convention

Observers: The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Secretariat

Geneva

Secretariat for the Rotterdam Convention

UNEP Chemicals

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Geneva

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Website: www.pic.int

Rome

Secretariat for the Rotterdam Convention

Plant Protection Service

Plant Production and Protection Division

FAO

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Website: www.fao.org
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SELECTED ARTICLES

Article 3

Scope of the Convention

1. This Convention applies to:
 - (a) Banned or severely restricted chemicals; and
 - (b) Severely hazardous pesticide formulations.
2. This Convention does not apply to:
 - (a) Narcotic drugs and psychotropic substances;
 - (b) Radioactive materials;
 - (c) Wastes;
 - (d) Chemical weapons;
 - (e) Pharmaceuticals, including human and veterinary drugs;
 - (f) Chemicals used as food additives;
 - (g) Food;
 - (h) Chemicals in quantities not likely to affect human health or the environment provided they are imported:
 - (i) For the purpose of research or analysis; or
 - (ii) By an individual for his or her own personal use in quantities reasonable for such use.

Article 4

Designated national authorities

1. Each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention.
2. Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.
3. Each Party shall, no later than the date of the entry into force of this Convention for it, notify the name and address of such authority or authorities to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.

4. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3.

KEYWORDS

PIC, export, import, pesticides, chemicals, health and safety, UNEP, FAO

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention establishes the principle that export of a chemical covered by the Convention can only take place with the prior informed consent (PIC) of the importing party. The Convention establishes a "Prior Informed Consent procedure", a means for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of specified chemicals and for ensuring compliance with these decisions by exporting countries. The Convention also contains provisions for the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported. The Convention covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by Parties and which have been notified by Parties for inclusion in the PIC procedure.

The Convention establishes a first line of defence by giving importing countries the tools and information they need to identify potential hazards, and exclude chemicals they cannot manage safely. If a country agrees to import chemicals, the Convention promotes their safe use through labelling standards, technical assistance, and other forms of support. It also ensures that exporters comply with the requirements.

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The dramatic growth in chemicals production and trade during the last three decades has highlighted the risk posed by hazardous chemicals and pesticides. This Convention is of importance because of the widespread use of pesticides and other chemicals in daily life today. Many chemicals reach the marine environment from land-based activities, and can affect marine aquatic resources including fish and shellfish. They can also be accumulated in fish and shellfish, and consumption of these contaminated fish may affect human beings as well. In the long term, such chemicals may affect the quality/quantity of fish production and hence the relevance of this convention to fisheries. Severely hazardous pesticide formulations that present a hazard under conditions of use in developing countries or countries with economies in transition may also be nominated for inclusion in the procedure.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Small-scale fisheries are often confined to nearshore areas. Most of the chemical pollutants from land-based activities, including agriculture, that use pesticides reach the marine environment and have greater effect on aquatic species along the coastline. If these chemicals are washed out into the sea in higher concentrations during episodes of flooding, they may have immediate toxic effects on fish species, resulting in mass mortality of fish during a short period of time. In the longer term, bioconcentration and bioaccumulation of these chemicals may result in the disruption of the physiological functions of both marine species and human beings who consume these contaminated fish and shellfish.

Stockholm Convention on Persistent Organic Pollutants

SHORT TITLE

Stockholm Convention

ACRONYM

POPs

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To protect human health and the environment from persistent organic pollutants

CONTENTS

30 Articles and six annexes

DATE OF ADOPTION

22 May 2001

PLACE OF ADOPTION

Stockholm, Sweden

OPENED FOR SIGNATURE

23 May 2001

DATE OF ENTRY INTO FORCE

17 May 2004

SIGNATORIES

151 (as on 24 March 2005)

RATIFICATIONS

96 (as on 24 March 2005)

INITIATING BODY

United Nations Environment Programme

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties

Subsidiary bodies

Persistent Organic Pollutants Review Committee

Expert Group on Best Available Techniques and Best Environmental Practices

Periodicity of meetings

Once a year (the first meeting of the COP was held in Uruguay in May 2005).

Participation in meetings

Decision-making body: COP

Voting rights: Conference of Parties

Observers: The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Secretariat

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ADDITIONAL INFORMATION

During the interim period between adoption and entry into force of the Convention, the Intergovernmental Negotiating Committee (INC) of the Stockholm Convention was preparing for the first meeting of the COP.

SELECTED ARTICLES

Article 3: Measures to reduce or eliminate releases from intentional production and use

1. Each Party shall:
 - (a) Prohibit and/or take the legal and administrative measures necessary to eliminate:
 - (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and
 - (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and
 - (b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:
 - (a) That a chemical listed in Annex A or Annex B is imported only:
 - (i) For the purpose of environmentally sound disposal as set

forth in paragraph 1 (d) of Article 6; or
(ii) For a use or purpose which is permitted for that Party under Annex A or Annex B.

- (b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:
 - (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;
 - (ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or
 - (iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:
 - a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;
 - b. Comply with the provisions of paragraph 1 of Article 6; and
 - c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

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6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.
 - (d) well as on their health and environmental effects and on their alternatives;
 - (d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;
 - (e) Training of workers, scientists, educators and technical and managerial personnel;
 - (f) Development and exchange of educational and public awareness materials at the national and international levels; and
 - (g) Development and implementation of education and training programmes at the national and international levels.

Article 4: Register of specific exemptions

2. The Register shall include:
 - (a) A list of the types of specific exemptions reproduced from Annex A and Annex B;
 - (b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and
 - (c) A list of the expiry dates for each registered specific exemption.

Article 10: Public information, awareness and education

1. Each Party shall, within its capabilities, promote and facilitate:
 - (a) Awareness among its policy and decision makers with regard to persistent organic pollutants;
 - (b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;
 - (c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as

KEYWORDS

POP, pesticides, bioaccumulation, migratory species, UNEP, environment, pollution, dispute resolution, human health, women, trade, environmental management, convention, standards, waste management, public awareness

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention recognizes that persistent organic pollutants (POPs) possess toxic properties, resist degradation, bioaccumulate, and are transported, through air, water and migratory species, including fish, across international boundaries, and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems.

POPs are chemicals that remain intact in the environment for long periods, become widely distributed

geographically, accumulate in the fatty tissue of living organisms, and are toxic to humans and wildlife. POPs circulate globally and can cause damage wherever they travel. POPs accumulating in the marine environment affect breeding populations of fish. Fish caught with high concentrations of chemicals in their tissues become unacceptable for consumption.

The Convention addresses the health concerns, especially in developing countries, resulting from local exposure to POPs, in particular, the impacts upon

women and, through them, upon future generations.

It acknowledges that indigenous communities are particularly at risk because of the biomagnification of POPs and that contamination of their traditional foods is a public-health issue.

Significantly, Article 10 of this Convention requires States to create public awareness about POPs, including by providing all available information on POPs. It also encourages States to seek the participation of the public in responding to the threats posed by POPs.

International Convention for the Control and Management of Ships' Ballast Water and Sediments

SHORT TITLE

BWM Convention (Globallast)

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To prevent, minimize and ultimately eliminate the risks to the environment, human health, property and resources arising from the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments, as well as to avoid unwanted side-effects from that control and to encourage developments in related knowledge and technology.

CONTENTS

Article 22 and Annex

DATE OF ADOPTION

13 February 2004

PLACE OF ADOPTION

London, UK

DATE OF ENTRY INTO FORCE

(Will enter into force 12 months after ratification by 30 States, representing 35 per cent of world merchant shipping tonnage)

INITIATING BODY

International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Subsidiary bodies

Marine Environment Protection Committee (MEPC), Ballast Water working group

Secretariat

Office of Ballast Water Management
Marine Environment Division
International Maritime Organization
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Website: www.globallast.imo.org,
www.imo.org

GUIDELINES

Guidelines for the Control and Management of Ships Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens, 1997

ADDITIONAL INFORMATION

IMO has joined forces with the Global Environment Facility (GEF), the United Nations Development Programme (UNDP), member governments and the shipping industry to assist less-industrialized countries to tackle the ballast water problem.

The full title of this project is Removal of Barriers to the Effective Implementation of Ballast Water Control and Management Measures in Developing Countries.

It is more simply referred to as the Global Ballast Water Management Programme, or GloBallast.

The Conference also adopted four resolutions:

- Conference resolution 1: Future work by the Organization pertaining to the International Convention for the Control and Management of Ships' Ballast Water and Sediments
- Conference resolution 2: The use of decision-making tools when reviewing the standards pursuant to Regulation D-5
- Conference resolution 3: Promotion of technical co-operation and assistance
- Conference resolution 4: Review of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments

SELECTED ARTICLES

Article 2

General Obligations

3. Nothing in this Convention shall be interpreted as preventing a Party from taking, individually or jointly with other Parties, more stringent measures with respect to the prevention, reduction or elimination of the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships' Ballast Water and Sediments, consistent with international law.
4. Parties shall endeavour to co-operate for the purpose of effective implementation, compliance and enforcement of this Convention.
5. Parties undertake to encourage the continued development of Ballast Water Management and standards to prevent, minimize and ultimately eliminate the transfer of Harmful

Aquatic Organisms and Pathogens through the control and management of ships' Ballast Water and Sediments.

6. Parties taking action pursuant to this Convention shall endeavour not to impair or damage their environment, human health, property or resources, or those of other States.

Article 4

Control of the Transfer of Harmful Aquatic Organisms and Pathogens Through Ships' Ballast Water and Sediments

1. Each Party shall require that ships to which this Convention applies and which are entitled to fly its flag or operating under its authority comply with the requirements set forth in this Convention, including the applicable standards and requirements in the Annex, and shall take effective measures to ensure that those ships comply with those requirements.
2. Each Party shall, with due regard to its particular conditions and capabilities, develop national policies, strategies or programmes for Ballast Water Management in its ports and waters under its jurisdiction that accord with, and promote the attainment of the objectives of this Convention.

Article 5

Sediment Reception Facilities

1. Each Party undertakes to ensure that, in ports and terminals designated by that Party where cleaning or repair of ballast tanks occurs, adequate facilities are provided for the reception of Sediments, taking into account the Guidelines developed by the Organization. Such reception facilities shall operate without causing undue delay to ships and shall provide for the safe disposal of such Sediments that does not impair

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or damage their environment, human health, property or resources or those of other States.

2. Each Party shall notify the Organization for transmission to the other Parties concerned of all cases where the facilities provided under paragraph 1 are alleged to be inadequate.

Annex

- Regulations for the Control and Management of Ships Ballast Water and Sediments
- Section B- Management and Control Requirements for Ships
- Regulation B-1 Ballast Water Management Plan
- Section C – Special Requirements in Certain Areas
- Section D - Standard for Ballast Water Management
- Section E – Survey and Certification Requirements for Ballast Water Management

KEYWORDS

Alien species, ballast water, conservation, danger, discharge, environment, Flag State, harmful aquatic organisms, invasive species, management, marine environment, pollution, precautionary approach, regulations, sediments, ships, standards, vessel size, pathogens, ships

RELEVANCE TO FISHERIES/ FISHWORKERS

Invasive alien species have been recognized as one of the major threats to the marine environment. One of the most important ways of accidental introduction of alien species is by the discharge of ballast water and sediments. Ballast water is water carried by ships to ensure trim, stability and structural integrity. Globally, some three to ten billion tonnes of ballast water are moved annually.

Many marine species have planktonic stages in their life cycle. Even if adults are too large and unlikely to be taken in ballast water, the planktonic stages may be transported. On finding suitable niches, they may colonize new environments and lead to the suppression of indigenous species, or may disrupt food webs.

For example, in the US, the European Zebra Mussel *Dreissena polymorpha* has infested over 40 per cent of internal waterways, and may have required between US\$750 mn and US\$1 bn in expenditure on control measures between 1989 and 2000. In southern Australia, the Asian kelp *Undaria pinnatifida* is invading new areas rapidly, displacing the native seabed communities. In the Black Sea, the filter-feeding North American jellyfish *Mnemiopsis leidyi* has, on occasion, reached densities of 1kg of biomass per sq m. It has depleted native plankton stocks to such an extent that it has contributed to the collapse of entire Black Sea commercial fisheries. In several countries, introduced microscopic 'red-tide' algae (toxic dinoflagellates) have been absorbed by filter-feeding shellfish, such as oysters. When eaten by humans, these contaminated shellfish can cause paralysis and even death.

The Convention provides Parties the right to take, individually or jointly with other Parties, more stringent measures with respect to the prevention, reduction or elimination of the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments, consistent with international law. It asks Parties to ensure that ballast-water management practices do not cause greater harm than they prevent to their environment, human health, property or resources, or those of other States. The

Convention defines “ships” as vessels of any type whatsoever operating in the aquatic environment and includes submersibles, floating craft, floating platforms, floating storage units (FSU)s and floating production storage and offloading units (FPSOs).

According to Section B of the Annex on “Management and Control

Requirements for Ships”, ships are required to have on board, and implement, a Ballast Water Management Plan approved by the Administration. The Ballast Water Management Plan is specific to each ship, and includes a detailed description of the actions to be taken to implement the requirements and practices of ballast-water management.

Intergovernmental Conference to Adopt a Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities

SHORT TITLE

Washington Conference

ACRONYM

GPA-LBA

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To protect and preserve the marine environment from the impacts of land-based activities

CONTENTS

Preamble with 18 paragraphs

NAME OF DECLARATION

Washington Declaration on Protection of the Marine Environment from Land-based Activities

PLACE OF DECLARATION

Washington, USA

DATE OF DECLARATION

1 November 1995

INITIATING BODY

United Nations Environment Programme (UNEP)

WORKING OF THE INSTRUMENT

Decision-making body

UNEP Governing Council

Monitoring and implementation

UNEP/GPA Co-ordination Office - The Hague

UNEP Regional Seas Programme

Periodicity of meetings

The regular session of the Governing Council of the UNEP meets once in every two years

Participation in meetings

Decision-making body: Governing Council of the UNEP

Voting rights: Each member of the Council has one vote.

Observers: According to Para 69 of the Rules of Procedure "International non-governmental organizations having an interest in the field of the environment, referred to in section IV, paragraph 5, of General Assembly resolution 2997 (XXVII), may designate representatives to sit as observers at public meetings of the Governing Council and its subsidiary organs, if any. The Governing Council shall from time to time adopt and revise when necessary a list of such organizations. Upon the invitation of the President or Chairman, as the case may be, and subject to the approval of the Governing Council or of the subsidiary organ concerned, international non-governmental organizations may make oral statements on matters within the scope of their activities".

Secretariat

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GUIDELINES

- Guidelines on Municipal Wastewater Management, Version 3, Feb 2004 (and 10 Key points for local and national action)
- Strategy Options for Sewage Management to Protect the Marine Environment
- Key Principles for Port and Harbour Development (September 2004)

PLAN

Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities

REGIONAL INSTRUMENTS

- Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention); adopted 1992, in force 2000 (Helsinki Commission)
- Convention on the Protection of the Black Sea Against Pollution (Bucharest Convention); adopted 1992, in force 1994
- Protocol on Protection of the Black Sea Marine Environment Against Pollution from Land-based Sources; adopted 1992, in force 1994
- Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi Convention); adopted 1985, in force 1996

- Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention); adopted on 16 February 1976, in force 12 February 1978; revised in Barcelona, Spain, 9-10 June 1995 as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (not yet in force)
- Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (LBS Protocol); adopted in Athens, Greece, on 17 May 1980, in force 17 June 1983, amended in Syracuse, Italy, 6 - 7 March 1996 as the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (not yet in force) (UNEP)
- Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention); adopted 1992, in force 1998 (OSPAR Commission)
- Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (Jeddah Convention); adopted 1982, in force 1985
- Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait Convention); adopted 1978, in force 1979
- Kuwait Regional Protocol for the Protection of the Marine Environment against Pollution from Land-Based Sources; adopted 1990, in force 1993
- Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific (Lima Convention), adopted 1981; in force 1986
- Protocol for the Protection of the South-East Pacific against Pollution

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from Land-based Sources; adopted 1983, in force 1986

- Convention for the Protection of Natural Resources and Environment of the South Pacific Region (Noumea Convention); adopted 1986, in force 1990
- Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention); adopted 1981, in force 1984
- Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention); adopted 1983, in force 1986
- Protocol Concerning Pollution from Land-based Sources and Activities to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (LBS Protocol), adopted 1999

REGIONAL AGENCIES

UNEP Regional Seas Programmes:

Black Sea, East Asian Seas, Eastern Africa, Mediterranean, North-East Pacific, North-West Pacific, Red Sea and Gulf of Aden, ROPME Sea Area (Kuwait), South Asian Seas, South Pacific, South-East Pacific, South-West Atlantic, West and Central Africa, Wider Caribbean
Other regional seas programmes: Arctic, Baltic, North-East Atlantic, Antarctic.

SUBSEQUENT MEETINGS

First Intergovernmental Review Meeting of the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, 2001.

SUBSEQUENT UNGA RESOLUTIONS

Resolution 51/189 (adopted at the 51st session of the United Nations General Assembly on 16 December 1996) on

“Institutional arrangements for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities” endorsed the Washington Declaration and stressed the need for States to take the necessary measures for the implementation of the Global Programme of Action at the national and, as appropriate, the regional and international levels.

SELECTED PARAGRAPHS

1. Setting as their common goal sustained and effective action to deal with all land-based impacts upon the marine environment, specifically those resulting from sewage, persistent organic pollutants, radioactive substances, heavy metals, oils (hydrocarbons), nutrients, sediment mobilization, litter, and physical alteration and destruction of habitat;
4. Co-operating to build capacities and mobilize resources for the development and implementation of such programmes, in particular for developing countries, especially the least developed countries, countries with economies in transition and small island developing States (hereinafter referred to as “countries in need of assistance”);
5. Taking immediate preventive and remedial action, wherever possible, using existing knowledge, resources, plans and processes;
6. Promoting access to cleaner technologies, knowledge and expertise to address land-based activities that degrade the marine environment, in particular for countries in need of assistance; and

17. Acting to develop, in accordance with the provisions of the Global Programme of Action, a global, legally binding instrument for the reduction and or elimination of emissions, discharges and, where appropriate, the elimination of the manufacture and use of the persistent organic pollutants identified in decision 18/32 of the Governing Council of the United Nations Environment Programme. The nature of the obligations undertaken must be developed recognizing the special circumstances of countries in need of assistance. Particular attention should be devoted to the potential need for the continued use of certain persistent organic pollutants to safeguard human health, sustain food production and to alleviate poverty in the absence of alternatives and the difficulty of acquiring substitutes and transferring of technology for the development and/or production of those substitutes;

KEYWORDS

ICAM, marine environment, pollution, habitat, poverty, industry, coastal communities, stakeholder, cooperation, capacity building, sewage, POPs, radioactive substances, heavy metals, oils (hydrocarbons), nutrients, sediments, litter, physical alteration and destruction of habitat

RELEVANCE TO FISHERIES/ FISHWORKERS

Pollution and degradation of coastal and marine resources is arguably one of the most important threats facing the fisheries sector today, with clear implications for the livelihoods of small-scale fishworkers and their communities. The Declaration expresses the commitment of States to protect and preserve the marine environment from the impacts of land-based activities, and recognizes the interdependence of human populations and the coastal and marine environments, and the growing and serious threat from land-based activities, to both human health and well-being and the integrity and productivity of coastal and marine ecosystems and biodiversity. It sets up common goals for governments to develop sustained and effective action to deal with all land-based impacts upon the marine environment, specifically those resulting from sewage, POPs, radioactive substances, heavy metals, oils (hydrocarbons), nutrients, sediment mobilization, litter, and physical alteration and destruction of habitat.

It calls for action against physical alteration and destruction of habitat, which is of great importance, as habitat alteration of mangroves, coral reefs and seagrass beds lead to negative effects on the fishery resources and their productivity.

Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities

SHORT TITLE

Global Programme of Action

ACRONYM

GPA

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Plan of Action

OBJECTIVES

The Global Programme of Action aims at preventing the degradation of the marine environment from land-based activities by facilitating the realization of the duty of States to preserve and protect the marine environment. It is designed to assist States in taking actions individually or jointly within their respective policies, priorities and resources, which will lead to the prevention, reduction, control and/or elimination of the degradation of the marine environment, as well as to its recovery from the impacts of land-based activities. Achievement of the aims of the Programme of Action will contribute to maintaining and, where appropriate, restoring the productive capacity and biodiversity of the marine environment, ensuring the protection of human health, as well as promoting the conservation and sustainable use of marine living resources.

CONTENTS

154 Paragraphs (in 5 main sections, section V deals with various sources of pollution) and Annex

SUBSEQUENT UNGA RESOLUTIONS

Resolution 51/189 (adopted at the 51st session of the United Nations General Assembly on 16 December 1996) on "Institutional arrangements for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities" endorsed the Washington Declaration and stressed the need for States to take the necessary measures for the implementation of the Global Programme of Action at the national and, as appropriate, the regional and international levels.

SELECTED PARAGRAPHS

18. To develop comprehensive, continuing and adaptive programmes of action within the framework of integrated coastal area management which should include provisions for:
- (a) Identification and assessment of problems;
 - (b) Establishment of priorities;
 - (c) Setting management objectives for priority problems;
 - (d) Identification, evaluation and selection of strategies and measures, including management approaches;

- (e) Criteria for evaluating the effectiveness of strategies and programmes;
- (f) Programme support elements.
21. The identification and assessment of problems is a process of combining five elements:
- (a) Identification of the nature and severity of problems in relation to:
- (i) Food security and poverty alleviation;
 - (ii) Public health;
 - (iii) Coastal and marine resources and ecosystem health, including biological diversity;
 - (iv) Economic and social benefits and uses, including cultural values;
- (b) Contaminants: (not listed in order of priority)
- (i) Sewage;
 - (ii) Persistent organic pollutants;
 - (iii) Radioactive substances;
 - (iv) Heavy metals;
 - (v) Oils (hydrocarbons);
 - (vi) Nutrients;
 - (vii) Sediment mobilization;
 - (viii) Litter;
- (c) Physical alteration, including habitat modification and destruction in areas of concern;
- (d) Sources of degradation:
- (i) Point sources (coastal and upstream), such as: (not listed in order of priority)
 - A. Waste-water treatment facilities;
 - B. Industrial facilities;
 - C. Power plants;
 - D. Military installations;
 - E. Recreational/tourism facilities;
 - F. Construction works (e.g., dams, coastal structures, harbour works and urban expansion);
 - G. Coastal mining (e.g., sand and gravel);
 - H. Research centres;
 - I. Aquaculture;
 - J. Habitat modification (e.g., dredging, filling of wetlands or clearing of mangrove areas);
 - K. Introduction of invasive species;
 - (ii) Non-point (diffuse) sources (coastal and upstream), such as: (not listed in order of priority)
 - A. Urban run-off;
 - B. Agricultural and horticultural run-off;
 - C. Forestry run-off;
 - D. Mining waste run-off;
 - E. Construction run-off;
 - F. Landfills and hazardous waste sites;
 - G. Erosion as a result of physical modification of coastal features;
 - (iii) Atmospheric deposition caused by:
 - A. Transportation (e.g., vehicle emissions);
 - B. Power plants and industrial facilities;
 - C. Incinerators;
 - D. Agricultural operations;
- (e) Areas of concern (what areas are affected or vulnerable): (not listed in order of priority)
- (i) Critical habitats, including coral reefs, wetlands, seagrass beds, coastal

- lagoons and mangrove forests;
- (ii) Habitats of endangered species;
- (iii) Ecosystem components, including spawning areas, nursery areas, feeding grounds and adult areas;
- (iv) Shorelines;
- (v) Coastal watersheds;
- (vi) Estuaries and their drainage basins;
- (vii) Specially protected marine and coastal areas; and
- (viii) Small islands.

149. The increase of populations and economic activities in coastal areas is leading to an expansion of construction and alterations to coastal areas and waters. Excavation, oil and gas exploration and exploitation, mining, such as sand and aggregate extraction, the building of ports and marinas and building of coastal defences and other activities linked to urban expansion are giving rise to alterations of coral reefs, shorelands, beachfronts and the seafloor. Important habitats are being destroyed. Wetlands are being transformed into agricultural lands and through coastal development. Tourism, unrestricted and uncontrolled aquaculture, clearance of mangroves and destructive fishing practices, such as the use of dynamite and chemicals, are also causing the physical destruction of important habitats. The introduction of alien species can also have serious effects upon marine ecosystem integrity. Spawning grounds, nurseries and

feeding grounds of major living marine resources of crucial importance to world food security are being destroyed. This destruction of habitat exacerbates overharvesting of these living marine resources leading to a growing risk that they are being depleted. This is an increasing threat to the food security of coastal populations, in particular in developing countries.

KEYWORDS

Aquaculture, best practices, clearing house, coastal areas, coastal communities, coastal resources, coral reefs, Destructive Fishing Technology, food security, GEF, habitat, habitat destruction, heavy metals, indigenous communities, Intellectual Property Rights, land based pollution, litter, livelihoods, mangroves, mariculture, marine debris, marine environment, marine pollution, natural resources, non-point sources, nutrients, oil, Physical Alteration and Destruction of Habitats (PADH), plastics, policy, poverty, precautionary approach, radioactive substances, regional seas, sediments, sewage, stakeholders, sustainable development, tourism, waste management, wastes

RELEVANCE TO FISHERIES/ FISHWORKERS

Land-based activities constitute the largest sources of pollution in the marine environment. The GPA is not a legally binding instrument, but it draws, and is built, upon existing international law, and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources. The GPA-LBA focuses on nine source categories. Litter is one area of

focus and is of relevance to fisheries—turtles, fish, birds, dolphins, seals and other marine mammals have all fallen victim to plastic litter, which they ingest. Worldwide, an estimated 100,000 marine mammals and turtles are now killed annually by plastic litter. Physical alteration and destruction of habitats (PADH) is another area of focus and of particular relevance to fisheries because of the extensive conversion of coastal ecosystems such as mangroves into shrimp aquaculture farms, which has resulted in loss of livelihood to small-scale fishing communities, apart from pollution of coastal areas due to antibiotics and other chemicals used in aquaculture, and the reduction of coastal biodiversity.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Plan of Action recommends States to look into the nature and severity of problems in relation to food security and

poverty, public health and economic and social benefits and uses. In the processes of establishing priorities for action, it asks States to apply integrated coastal area management approaches, including provisions to involve stakeholders, in particular local authorities and communities and relevant social and economic sectors, including non-governmental organizations, women, indigenous people and other major groups. It also asks States to consider the basic linkages between sustainable development of coastal and marine resources, poverty alleviation and protection of the marine environment.

The Plan of Action calls upon States to protect critical habitats, using community-based participatory approaches that are consistent with current approaches to conservation, and compatible with sustainable development.

First Intergovernmental Review Meeting on the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To review the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA-LBA).

CONTENTS

15 paragraphs

NAME OF DECLARATION

Montreal Declaration

PLACE OF DECLARATION

Montreal, Canada

DATE OF DECLARATION

30 November 2001

SELECTED PARAGRAPHS

2. We are concerned that:

- (a) The marine environment is being increasingly degraded by pollution from sewage, persistent organic pollutants, radioactive substances, heavy metals, oils, litter, the physical alteration and destruction of habitats, and the alteration of timing, volume and quality of freshwater inflows with resulting changes to nutrient and sediment budgets and salinity regimes;

- (b) The significant negative implications for human health, poverty alleviation, food security and safety and for affected industries are of major global importance;
 - (c) The social, environmental and economic costs are escalating as a result of the harmful effects of land-based activities on human health and coastal and marine ecosystems and that certain types of damage are serious and may be irreversible;
 - (d) The impacts of climate change on marine environments are a threat to low-lying coastal areas and small island States due to the increased degradation of the protective coastal and marine ecosystems;
 - (e) Greater urgency is not accorded to taking action at the national and regional levels for meeting the objectives of the Global Programme of Action.
3. We are concerned also about the widespread poverty, particularly in coastal communities of developing countries, and the contribution that the conditions of poverty make to marine pollution through, for example, lack of even basic sanitation; and how marine degradation generates poverty by depleting the very basics for social and economic development.

9. We further commit ourselves to improve and accelerate the implementation of the Global Programme of Action by:
- (a) Taking appropriate action at the national and regional levels to strengthen institutional co-operation between, *inter alia*, river-basin authorities, port authorities and coastal zone managers, and to incorporate coastal management considerations into relevant legislation and regulations pertaining to watershed management in particular transboundary watersheds;
 - (b) Strengthening the capacity of local and national authorities to obtain and utilize sound scientific information to engage in integrated decision-making, with stakeholder participation, and to apply effective institutional and legal frameworks for sustainable coastal management;
 - (c) Strengthening regional seas programmes to play a role in, as appropriate, coordination and cooperation:
 - (i) In the implementation of the Global Programme of Action;
 - (ii) With other relevant regional organizations;
 - (iii) In regional development and watershed management plans;
 - (iv) With global organizations and programmes relating to implementation of global and regional conventions;
 - (d) Supporting this new integrated management model for oceans and coastal governance as an important new element of international environmental governance;
 - (e) Improving scientific assessment of the anthropogenic impacts on the marine environment, including, *inter alia*, the socio-economic impacts;
 - (f) Enhancing the state-of-the-oceans reporting to better measure progress towards sustainable development goals, informing decision-making (such as setting management objectives), improving public awareness and helping assess performance;
 - (g) Improving technology development and transfer, in accordance with the recommendations of the United Nations General Assembly.

KEYWORDS

Coastal areas, coastal communities, coastal environment, economic development, food security, human health, marine environment, marine pollution, oceans, policy, pollution, poverty, sanitation, social development, stakeholders, waste management

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The First Intergovernmental Review Meeting recognizes the link between marine degradation and poverty, and calls for acceleration of the implementation of the GPA-LBA. It emphasizes stakeholder participation in the process.

**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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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

Theme V
Fishing Vessels and Safety at Sea



International Collective in Support of Fishworkers
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Introduction

This section provides information on four binding and two non-binding instruments related to safety at sea. Fishing is known to be a high-risk occupation, and increasing safety at sea is an important concern. According to the International Maritime Organization (IMO), the fishing sector reportedly suffers around 24,000 human losses annually.

The IMO, the Food and Agriculture Organization of the United Nations (FAO) and the International Labour Organization (ILO) are the three main organizations involved in formulating and implementing instruments related to safety at sea and fishing vessels and fishing vessels' personnel.

Several aspects are involved in the matter of safety at sea, from the design of seagoing vessels and communication equipment to the training and certification of personnel in charge of navigation. While many of the conventions relate to larger seagoing vessels, a specific few focus on fishing vessels of all sizes. There are also voluntary guidelines that are being formulated specifically for small fishing vessels, below 12 m length. It is worth noting that conventions that are specific to fishing vessels, have not yet entered into force due to the lack of minimum requisite ratifications by countries.

The Convention on the International Regulations for Preventing Collisions at Sea (COLREGs, 1972) was designed to update and replace the Collision Regulations of 1960.

The Torremolinos International Convention for the Safety of Fishing Vessels (SFV, 1977) was the first-ever international convention on the safety of fishing vessels. It contained safety requirements for the construction and equipment of new, decked, seagoing fishing vessels of 24 m or longer, including those vessels that process their catch. In 1993, the Torremolinos Protocol was adopted to update and amend the Convention, as it did not enter into force until 1993, due to the lack of required number of ratifications.

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F, 1995) is the first attempt to make mandatory international standards of safety for crew of fishing vessels. The convention contains requirements concerning skippers and watchkeepers on vessels 24 m or longer, and basic safety training for all fishing vessel personnel.

Besides these legally binding instruments, voluntary codes and guidelines have also been adopted for safety at sea and construction of fishing vessels. The Code of Safety for Fishermen and Fishing Vessels, adopted in 2005, provides guidelines for the safety and health of fishermen (Part A) and for the construction of fishing vessels (Part B) 24 m and over in length.

The Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels specifically refers to small fishing vessels, and covers the design, construction and equipment of fishing boats between 12 m and 24 m in length.

It is worth noting that currently there are no international legal instrument relating to safety standards for decked fishing vessels of less than 12 m length and undecked fishing vessels of any size. In December 2004, the subcommittee on Stability and Loadlines and Fishing Vessels' Safety (SLF) of the the IMO Maritime Safety Committee (MSC) agreed to include in the work programme, a new item on "Safety of small fishing vessels". The aim is to develop, by 2009, safety standards for decked fishing vessels below 12 m in length and undecked vessels regardless of size, bearing in mind that the large majority of fishing fatalities occur in such vessels.

Texts from the instruments have not been reproduced, as most of them are not available for public distribution in electronic format.

Convention on the International Regulations for Preventing Collisions at Sea, 1972

ACRONYM

COLREGs

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To maintain high level of safety at sea and bring up to date the International Regulations for Preventing Collisions at Sea annexed to the Final Act of the International Conference on Safety of Life at Sea, 1960

DATE OF ADOPTION

20 October 1972

PLACE OF ADOPTION

London

DATE OF ENTRY INTO FORCE

15 July 1977

RATIFICATIONS

146 (97.60 percentage of the world's tonnage) as on 24 March 2005

CONTENTS

The COLREGs include 38 rules divided into five sections: Part A - General; Part B - Steering and Sailing; Part C - Lights and Shapes; Part D - Sound and Light signals; and Part E - Exemptions. There are also four Annexes containing technical requirements concerning lights and shapes and their positioning; sound signalling appliances; additional signals for fishing vessels when operating in close proximity, and international distress signals.

ADDITIONAL INSTRUMENTS

- Amendments in 1981, 1987, 1989, 1993 and 2001
- The 1981 amendments - rule 10 amended
- The 1987 amendments - crossing traffic lanes
- The 1989 amendments - inshore traffic zone
- The 1993 amendments - positioning of lights
- The 2001 amendments - WIG craft

INITIATING BODY

International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Decision-making body

IMO General Assembly Council

Monitoring and implementation

Maritime Safety Committee (MSC)

Periodicity of meetings

The Assembly meets once in two years

Participation in meetings

Decision-making body: IMO General Assembly

Voting rights: States who are members of the organization

Observers: Formal arrangements for co-operation have been established with more than 30 intergovernmental organizations, while more than 50 non-governmental international organizations have been granted consultative status to participate in the work of various bodies in an observer capacity. These organizations represent a wide spectrum

of maritime, legal and environmental interests and they contribute to the work of the various organs and committees through the provision of information, documentation and expert advice.

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ADDITIONAL INFORMATION

The amendment procedure for the convention: Under the “tacit acceptance” procedure incorporated in the Convention, an amendment must first be adopted by two-thirds of those present and voting in the Maritime Safety Committee. It is then communicated to Contracting Parties and considered by the IMO Assembly. If adopted by two-thirds of the States present and voting in the Assembly, it automatically enters into force on a specified date unless more than one-third of the Contracting Parties notify the Organization of their objection. In addition, a Conference for the purpose of revising the Convention or its regulations or both may be convened by IMO at the request of not less than one-third of Contracting Parties.

SELECTED ARTICLES

Regulations:
Part A

Rule 1:

(a) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.

- (b) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules.
- (c) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any State with respect to additional station or signal lights or whistle signals for ships of war and vessels proceeding under convoy, or with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. These additional station or signal lights or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light or signal authorized elsewhere under these Rules.

Rule 3:

(d) The term “vessel engaged in fishing” means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict manoeuvrability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict manoeuvrability.

Rule 9:

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

Rule 10:

- (e) A vessel, other than a crossing vessel, shall not normally enter a separation zone or cross a separation line except:
 - (i) in cases of emergency to avoid immediate danger;

Fishing Vessels and Safety at Sea

- (ii) to engage in fishing within a separation zone.
- (i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

Comment

Fishing vessels “shall not impede the passage of any vessel following a traffic lane” but are not banned from fishing. This is in line with Rule 9 which states that “a vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.” In 1981 the regulations were amended. Two new paragraphs were added to Rule 10 to exempt vessels which are restricted in their ability to manoeuvre “when engaged in an operation for the safety of navigation in a traffic separation scheme” or when engaged in cable laying.

Rule 26: Fishing vessels

- (a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.
- (b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:
 - (i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 m in length may instead of this shape exhibit a basket;
 - (ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 m in length shall not be obliged to exhibit such a light but may do so;

- (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
- (c) A vessel engaged in fishing, other than trawling, shall exhibit:
 - (i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 m in length may instead of this shape exhibit a basket;
 - (ii) when there is outlying gear extending more than 150 m horizontally from the vessel, an all-round white light or a cone apex upwards in the direction of the gear;
 - (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.
- (d) A vessel engaged in fishing in close proximity to other vessels may exhibit the additional signals described in Annex II to these Regulations.
- (e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

Rule 35:

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows: (c) A vessel not under command, a vessel restricted in her ability to manoeuvre, a vessel constrained by her draught, a sailing vessel, a vessel engaged in fishing and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes

three blasts in succession, namely one prolonged followed by two short blasts.

KEYWORDS

Safety at sea, IMO, fishing vessels, collisions, navigation, signals, lights, COLREGs

**RELEVANCE TO FISHERIES/
FISHWORKERS**

These regulations contain descriptions of the various signals to be used by different vessels to prevent collisions at sea. Rule 3 defines a fishing vessel as a vessel fishing with nets, lines, trawls or other fishing apparatus that restrict movement but does not include trolling lines.

Rule 9 of the Convention states that “a vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.” Rule 26 prescribes the lights and shapes that should be exhibited by fishing vessels of various types. Annex II contains additional signals for fishing vessels fishing in close proximity and include general rules as well as rules specific to trawlers and to purse-seiners. It is worth noting that Section 8.4.1 of FAO’s Code of Conduct for Responsible Fisheries makes a specific mention of the Convention.

International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel

ACRONYM

STCW-F

LEGAL STATUS

Binding (when adopted)

TYPE OF INSTRUMENT

Convention

OBJECTIVES

The Convention will apply to crews of seagoing fishing vessels generally of 24 m in length and above. The Convention is the first attempt to make standards of safety for crews of fishing vessels mandatory internationally

CONTENTS

15 Articles and an annex containing technical regulations. Chapter I contains General Provisions and Chapter II deals with Certification of Skippers, Officers, Engineer Officers and Radio Operators.

DATE OF ADOPTION

7 July 1995

DATE OF ENTRY INTO FORCE

Not entered into force.

RATIFICATIONS

Four (3.26 percentage of the world's tonnage) (as on 24 March 2005)

INITIATING BODY

International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Monitoring and implementation

Maritime Safety Committee (MSC) and the sub-committee on Standards of Training and Watchkeeping (STW)

Periodicity of meetings

MSC meets once a year.

Participation in meetings

MSC: Membership is open to members.

Secretariat

International Maritime Organization

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KEYWORDS

Certification, fishing vessels, training, crew, safety at sea, STCW-F

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention is the first attempt to make standards of safety for crews of fishing vessels mandatory internationally. The Convention contains requirements concerning skippers and watchkeepers on vessels of 24 m in length and over, chief engineers and engineering officers on vessels of 750 kw propulsion power or more and personnel in charge of radio communications. Chapter III of the Annex to the Convention includes requirements for basic safety training for all fishing vessel personnel. The importance of certification and training of crew of fishing vessels is also emphasized in Section 8.17 of the FAO's Code of Conduct for Responsible Fisheries.

The Torremolinos International Convention for the Safety of Fishing Vessels (SFV), 1977, being the Protocol of 1993

SHORT TITLE

Torremolinos Convention

ACRONYM

SFV Protocol

LEGAL STATUS

Binding (when adopted)

TYPE OF INSTRUMENT

Convention

OBJECTIVES

1977 Convention: to provide safety requirements for the construction and equipment of new, decked, seagoing fishing vessels of 24 m in length and over, including those vessels also processing their catch. Existing vessels were covered only in respect of radio requirements

1993 Protocol: to update, amend and absorb the parent Convention, taking into account technological evolution in the intervening years and the need to take a pragmatic approach to encourage ratification of the instrument. The Protocol applies to fishing vessels of 24 m in length and over including those vessels also processing their catch

CONTENTS

The safety provisions addressed by the Protocol, incorporating and amending the 1977 Convention, are included in an Annex consisting of ten Chapters. The provisions include automatically controlled machinery spaces, improved life-saving appliances, immersion suits and thermal protective aids, satellite communication systems and other components of the global maritime distress and safety system.

DATE OF ADOPTION

2 April 1977 (Convention)
2 April 1993 (SFV Protocol)

PLACE OF ADOPTION

Torremolinos, Spain

DATE OF ENTRY INTO FORCE

Not yet entered into force

RATIFICATIONS

SFV Protocol – 10 (9.71 percentage of the world's tonnage)

INITIATING BODY

International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Decision-making body

Conference of Parties (COP)

Monitoring and implementation

Maritime Safety Committee (MSC)

Periodicity of meetings

MSC meets once a year.

Participation in meetings

MSC is open to members of the organization.

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GUIDELINES

Code of safety for fishermen and fishing vessels as well as a set of voluntary guidelines for the design, construction and equipment of small fishing vessels.

REGIONAL AGREEMENTS

Guidelines for the safety of fishing vessels of 24 m and over but less than 45 m in length operating in the East and South-East Asia region, adopted at a Conference in Tokyo in February 1997.

European regional agreement applicable from 1 January 1999. The European legislation introducing a harmonized safety regime for fishing vessels of 24 m in length and over was adopted in December 1997 and is entirely based upon the 1993 Torremolinos Protocol.

ADDITIONAL INFORMATION

The 1977 Convention, adopted at a conference held in Torremolinos, Spain, was the first-ever international Convention on the safety of fishing vessels. The Convention has been superseded by the 1993 Protocol. Despite the importance of the Protocol, however, it is yet to enter into force.

SELECTED ARTICLES

Article 3. Application

- (1) The present Protocol shall apply to seagoing fishing vessels including vessels also processing their catch entitled to fly the flag of a Party.
- (2) The provisions of the Annex shall not apply to vessels exclusively used:
 - (a) for sport or recreation;
 - (b) for processing fish or other living resources of the sea;
 - (c) for research and training; or
 - (d) as fish carriers.
- (3) Unless expressly provided otherwise, the provisions of the

Annex shall apply to fishing vessels of 24 m in length and over.

- (4) In a case where a limit of the vessel's length is prescribed as greater than 24 m in a chapter for the application of that chapter, the Administration shall determine which regulations of that chapter should apply, wholly or in part, to a fishing vessel of 24 m in length and over but less than the length limit prescribed in that chapter and entitled to fly the flag of that State, having regard to the type, size and mode of operation of such a vessel.
- (5) Parties shall endeavour to establish, as a matter of high priority, uniform standards to be applied by Administrations to fishing vessels referred to in paragraph (4), which operate in the same region, taking into account the mode of operation, sheltered nature and climatic conditions in such region. Such uniform regional standards shall be communicated to the Organization for circulation to other Parties for information.

Article 4. Certification and port State control

- (1) Every vessel required to hold a certificate in accordance with the provisions of the regulations is subject, when in a port of another Party, to control by officers duly authorized by the Government of that Party in so far as this control is directed towards verifying that the certificate issued under the provisions of the relevant regulations is valid.
- (2) Such certificate, if valid, shall be accepted unless there are clear grounds for believing that the

condition of the vessel or of its equipment does not correspond substantially with the particulars of that certificate or that the vessel and its equipment are not in compliance with the provisions of the relevant regulations.

- (3) In the circumstances given in paragraph (2) or where a certificate has expired or ceased to be valid, the officer carrying out the control shall take steps to ensure that the vessel shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the appropriate repair yard without danger to the vessel or persons on board.
- (4) In the event of this control giving rise to an intervention of any kind, the officer carrying out the control shall forthwith inform, in writing, the Consul or, in his absence the nearest diplomatic representative of the State whose flag the vessel is entitled to fly, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the certificates shall also be notified. The facts concerning the intervention shall be reported to the Organization.
- (5) If the port State authority concerned is unable to take steps as specified in paragraph (3) or if the vessel has been allowed to proceed to the next port of call, the port State authority concerned shall notify all relevant information about the vessel to the Party mentioned in paragraph (4) and to the authorities of the next port of call.
- (6) When exercising control under this article, all possible efforts shall be

made to avoid a vessel being unduly detained or delayed. If a vessel is thereby unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered.

- (7) With respect to vessels of non-Parties to the present Protocol, Parties shall apply the requirements of the present Protocol as may be necessary to ensure that no more favourable treatment is given to such vessels.

KEYWORDS

Safety, IMO, Safety at sea, equipment, fishing vessels, construction, convention, certification, SFV Protocol

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention deals with safety requirements for the construction and equipment of new, decked, seagoing fishing vessels of 24 m in length and over, including those vessels also processing their catch. It stipulates regulations for the stability and associated seaworthiness of fishing vessels.

It also prescribes protection of the crew and requirements for lifesaving appliances and contains sample formats for certificates and records of equipment. Other chapters deal with matters such as construction, watertight integrity and equipment; machinery and electrical installations and unattended machinery spaces; fire protection, detection, extinguishing, and fire fighting; emergency procedures, musters and drills; radiotelegraphy and radiotelephony; and shipborne navigational equipment.

The Protocol takes into account the trend to exploit deep-water fishing grounds on

Fishing Vessels and Safety at Sea

a large scale, and to conduct fishing operations in distant waters, resulting in the building of a new generation of more sophisticated fishing vessels. To be successful in their operations, these vessels have to be fitted with advanced fishfinding and

navigation equipment. The Protocol calls for the development of regional guidelines for those vessels between 24 m and 45 m, taking into account the mode of operation, and the sheltered nature and climatic conditions of the region.

Code of Safety for Fishermen and Fishing Vessels, 1968

SHORT TITLE
Code of Safety

Headquarters, part A of the Code was adopted.

LEGAL STATUS
Non-binding

Part B of the Code, which covers safety and health requirements with respect to the construction and equipment of fishing vessels, was adopted by the second Joint FAO/ILO/IMO Meeting of Consultants

TYPE OF INSTRUMENT
Voluntary code

OBJECTIVES

Part A of the Code: to provide information with a view to promote the safety and health of fishermen

Part B of the Code: to provide information on design, construction and equipment of fishing vessels with a view to promoting the safety of the vessel and safety and health of the crew

The application of these principles will lessen the risk of danger to the vessel and damage to equipment

CONTENTS

The Code is divided into two parts – Part A for skippers and crews, and Part B for fishing vessel builders and owners.

Part A of the Code has 11 chapters and 6 appendices, which provide for the safety of the vessel, on deck, in fishing operations, in machinery spaces and of mechanical equipment; life saving appliances; and fire fighting and fire precautions.

DATE OF ADOPTION
4 to 13 September 1968

PLACE OF ADOPTION

Geneva, Switzerland in a joint FAO/ILO/IMO meeting of Consultants on Safety on Board Fishing Vessels held in ILO

INITIATING BODY

Food and Agriculture Organization of the United Nations (FAO)
International Labour Organization (ILO)
International Maritime Organization (IMO)

WORKING OF THE INSTRUMENT

Monitoring and implementation
Maritime Safety Committee (MSC)

* Sub-committee: Stability and Load Lines and Fishing Vessels Safety (SLF)

Periodicity of meetings

MSC meets once a year

Participation in meetings

MSC consists of all member states

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ADDITIONAL INFORMATION

At the 43rd session of the sub-committee on Stability and Load Lines and Fishing

Fishing Vessels and Safety at Sea

Vessels Safety (SLF), it was decided to revise Part B of the Code and the Voluntary guidelines, which would be presented to the MSC.

SELECTED ARTICLES

Chapter 1

1.2.1 For the purpose of this Part of the Code:

- (i) "fishing vessel" is a vessel used commercially for catching fish, whales, seals, walrus or other living resources of the sea. Certain provisions of this Part of the Code may also apply to vessels used for the processing and/or cold storage of the catch;
- (ii) "fisherman" is any person working on board a fishing vessel;

1.3.10 In order to minimize accidents due to fatigue, fishermen shall be granted adequate rest periods which should comprise at least six consecutive hours in every period of twenty-four hours.

KEYWORDS

Fishing vessels, safety at sea, equipment, communication, signals, lights, radar, construction, design, fishing operations, certification, education, hygiene, health and safety, medical examination, vocational training, accommodation, fire, crew

RELEVANCE TO FISHERIES/ FISHWORKERS

The Code deals with the fundamentals of safety and health of fishermen, and presents safety principles that should be common knowledge and practice and which, if followed, should greatly reduce

the risk of injury to fishermen and accidents to equipment. Its application is limited to fishing vessels of 24 m in length and over, excluding recreational fishing vessels and processing vessels.

The introduction to the Code points out that fishing has grown from being a primitive occupation to a highly developed industry, employing complex machinery. This development necessitates the introduction and expansion of safety measures along lines similar to those that apply to other major industries.

The Code provides safety principles designed to reduce risk of injury to fishermen, danger to the vessel and damage to equipment, incorporating provisions on navigation, fishing operations, life-saving appliances and other aspects of safety.

The provisions of the Code (Part B) are applied to new decked fishing vessels of 24 m in length and above and in the following categories:

1. vessels intended for fishing operations in unlimited sea areas;
2. vessels intended for fishing operations in sea areas up to 200 nautical miles from a place of shelter; and
3. vessels intended for fishing operations in sea areas up to 50 nautical miles from a place of shelter.

These provisions apply only for decked fishing vessels, and do not apply for fishing vessels for sport or recreation, or to processing vessels.

Part B of the Code is currently being revised by the MSC of the IMO.

Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels

SHORT TITLE

Voluntary guidelines

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Voluntary Guidelines

OBJECTIVES

To provide information on design, construction and equipment of small fishing vessels with a view to promoting the safety of the vessel and safety and health of the crew

CONTENTS

Ten chapters

DATE OF ADOPTION

October 1999 (MSC, IMO) and November 1999 (FAO)

INITIATING BODY

International Maritime Organization (IMO)
Food and Agriculture Organization of the United Nations (FAO)
International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

Monitoring and implementation

Maritime Safety Committee (MSC)

- * Sub-committee: Stability and Load Lines and Fishing Vessels Safety (SLF)

Periodicity of meetings

MSC meets once a year.

Participation in meetings

MSC consists of all member States.

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ADDITIONAL INFORMATION

At the 43rd session of the Stability and Load Lines and Fishing Vessels Safety (SLF), it was decided to revise the Voluntary guidelines, which would be presented to the MSC. It was approved by the committee in December 2004.

SELECTED PARAGRAPHS

The purpose of these guidelines is to provide information on design, construction and equipment of small fishing vessels with a view to promoting the safety of the vessel and safety and health of the crew. They are not intended as a substitute for national laws and regulations but may serve as a guide to those concerned with framing such national laws and regulations. Each competent authority responsible for the safety of fishing vessels should ensure that the provisions of these guidelines are adapted to its specific requirements having due regard to the size and type of vessels, their intended service and area of operation.

The provisions of these guidelines are intended to apply to new decked fishing vessels of 12 m in length and over, but less than 24 m in length.

Fishing Vessels and Safety at Sea

(This is only a summary of the instrument, and not the complete guidelines.)

KEYWORDS

Accommodation, crew, fishing vessels, construction, fire, communication, navigation

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

The Guidelines amplify Part B of the Code of Safety for Fishermen and Fishing

Vessels by providing guidelines on the design, construction and equipment of fishing vessels less than 24 m in length. It covers the design, construction and equipment of fishing boats between 12 m and 24 m in length, based on the points outlined in the safety codes. It is also worth noting that Section 8.2.5 of FAO's Code of Conduct for Responsible Fisheries, asks Flag States to adopt safety requirements during the construction and design of fishing vessels in accordance with the guidelines.

Document for Guidance on Training and Certification of Fishing Vessel Personnel

SHORT TITLE

Voluntary guidelines

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Voluntary Guidelines

OBJECTIVES

To improve the training, certification and watchkeeping standards of fishing vessel personnel

DATE OF ADOPTION

2000

INITIATING BODY

International Maritime Organization (IMO)
Food and Agriculture Organization of the United Nations (FAO)
International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

Monitoring and implementation

Maritime Safety Committee

- * Sub-committee: Stability and Load Lines and Fishing Vessels Safety (SLF)

Periodicity of meetings

MSC meets once a year

Participation in meetings

MSC consists of all member states

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ADDITIONAL INFORMATION

The Document was first introduced in 1985, and was later revised by the MSC in 2000. The first document took into account the conventions and recommendations adopted by the ILO, IMO and FAO in the field of fishermen's training, and covered training and certification of small-scale and industrial fishermen. In 1995, a joint working group reviewed the document with reference to relevant resolutions of the 1995 STCW-F Convention. The outcome led to the revised Document. The IMO published the guidance Document on behalf of IMO, FAO and ILO in 2001.

KEYWORDS

Fishing vessel, fishermen, small-scale fisheries, training, certification, standards

RELEVANCE TO FISHERIES/ FISHWORKERS

This Document is of relevance to fishermen who are employed on board small-scale and large fishing vessels, as it provides standards for training and certification of fishing vessel personnel.

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

Published by

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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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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

Theme VI
Labour



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Communities:
A Handbook**

**Theme VI
Labour**

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Introduction

The conventions and recommendations adopted by the International Labour Organization (ILO) formulate minimum international standards of basic labour rights: freedom of association, the right to organize, collective bargaining, abolition of forced labour, equality of opportunity and treatment, and other standards that regulate conditions across the entire spectrum of work-related issues.

The oldest instrument relating to fisheries is the Hours of Work (Fishing) Recommendation, which was adopted in 1920. There are seven existing standards (five conventions and two recommendations), adopted in 1920, 1959 and 1966, which are relevant to the fishing sector. The conventions relate to minimum age for employment, medical examination, articles of agreement, certificate of competency, and accommodation on board fishing vessels. The conventions, Competency Certificates Convention 1966 and Accommodation of Crews (Fishermen) Convention, 1966 do not apply to small-scale fishing vessels. The recommendations relate to hours of work and vocational training of fishermen. Some of the existing standards focus only on seagoing fishing vessels, in some cases excluding coastal vessels and vessels fishing in harbours and estuaries.

These instruments are currently in the process of being revised to reflect the changes in the sector, achieve more widespread ratifications and reach a greater portion of the world's fishermen, particularly those on smaller vessels.

Besides information on instruments specific to the fishing sector, this section also details instruments of a more general nature, which have relevance for those employed in the fisheries sectors—women's issues (night work, maternity protection), equal employment, child labour, forced labour, social security standards, minimum wage, occupational safety and health, and protection of wages and workers with family responsibilities.

The ILO has a unique structure, which consists of a General Conference of representatives of the Members; a Governing Body and the International Labour Office. The member States of the ILO meet at the International Labour Conference (ILC), held every

year in Geneva. Each member State is represented by a delegation consisting of two government delegates, an employer delegate, a worker delegate, and their respective advisers. Employer and worker delegates are nominated in agreement with the most representative national organizations of employers and workers. Every delegate has the same rights, and all can express themselves freely and vote as they wish. The ILC, which is often called an “international parliament of labour”, is responsible for crafting and adopting international labour standards in the form of Conventions and Recommendations. The Conference also supervises the application of conventions and recommendations at the national level. The Conference also passes resolutions that provide guidelines for the ILO’s general policy and future activities.

The Governing Body of the ILO is composed of 56 titular members (28 Governments, 14 Employers and 14 Workers) and 66 deputy members (28 Governments, 19 Employers and 19 Workers). Ten of the titular government seats are permanently held by “States of chief industrial importance”: Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States. The other Government members are elected by the Conference every three years.

Convention concerning the Minimum Age for Admission to Employment as Fishermen

SHORT TITLE

C 112 Minimum Age (Fishermen) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To set the minimum age for children to be employed in the fishing industry

CONTENTS

12 Articles

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour Conference at Geneva

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

29 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

The Convention was revised in 1973 by Convention No. 138.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

Decision-making body

General Conference of the ILO

Monitoring and implementation

- Governing Body of the ILO

- Committee on Freedom of Association (CFA)
- Programme, Financial and Administrative Committee (PFA)
- Committee on Legal Issues and International Labour Standards (LILS)
- Subcommittee on Multinational Enterprises (MNE)
- Committee on Employment and Social Policy (ESP)
- Committee on Sectoral and Technical Meetings and Related Issues (STM)
- Committee on Technical Co-operation (TC)
- Working Party on the Social Dimension of Globalization (WP/SDG)

Periodicity of meetings

Every two years, the Conference adopts the ILO's biennial work programme and budget, which is financed by member States.

Participation in meetings

Decision-making body

Voting rights: Every delegate has the same rights, and all can express themselves freely and vote as they wish. So it happens that worker and employer delegates sometimes vote against their government's representatives or against each other. This diversity of viewpoints, however, does not prevent decisions being adopted by very large majorities, or in some cases even unanimously.

Observers: Article 2, paragraph 3 (j) of the Standing orders of the International Labour Conference on regulating the

right of admission to sittings refers to “representatives of non-governmental international organizations with which it has been decided to establish consultative relationships and with which standing arrangements for such representation have been made and representatives of other non-governmental international organizations which have been invited by the Governing Body to be represented at the Conference.”

Monitoring and implementation: Governing Body of the ILO. It is composed of 56 titular members (28 Governments, 14 Employers and 14 Workers) and 66 deputy members (28 Governments, 19 Employers and 19 Workers). Ten of the titular government seats are permanently held by *States of chief industrial importance* (Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States). The other Government members are elected by the Conference every three years.

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ADDITIONAL INFORMATION

In 1973, ILO adopted the Minimum Age Convention (No.138), which sets the minimum age for all economic sectors at not less than the age of completion of compulsory schooling and, in any case, not less than 15 years. The adoption of this instrument led to the automatic denunciation of the more specific convention No. 112.

The 92nd session of the International Labour Conference was held from 1 to 17 June 2004, in Geneva, Switzerland. One of the agenda items for this session included discussions with a view to adopt a comprehensive standard of work in the fishing sector (a convention supplemented by a recommendation). The final decision on the same is to be made at the 93rd session of the International Labour Conference in 2005. The issue of minimum age is part of this comprehensive standard of work.

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term *fishing vessel* includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. This Convention does not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation.

Article 2

1. Children under the age of fifteen years shall not be employed or work on fishing vessels.
2. Provided that such children may occasionally take part in the activities on board fishing vessels during school holidays, subject to the conditions that the activities in which they are engaged –
 - (a) are not harmful to their health or normal development;
 - (b) are not such as to prejudice their attendance at school; and
 - (c) are not intended for commercial profit.
3. Provided further that national laws or regulations may provide for the issue in respect of children of not less than fourteen years of age of certificates permitting them to be

Labour

employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.

Article 3

Young persons under the age of eighteen years shall not be employed or work on coal-burning fishing vessels as trimmers or stokers.

KEYWORDS

Minimum age, child labour, fishing vessels, employment, working conditions

RELEVANCE TO FISHERIES/ FISHWORKERS

This Convention stipulates that children under the age of 15 years shall not be employed or work on fishing vessels. It also stipulates that young persons under the age of 18 years shall not be employed or work on coal-burning vessels as trimmers or stokers. The issue of minimum age for work on board fishing vessels is of particular importance, due to the hazardous nature of fishing. Some of the worst forms of child labour have been observed in the fishing industry—as in the case of children working on fishing platforms (called *jermals*) in parts of Indonesia. The issue is also important in view of the reported high incidence of children dropping out of school to work on fishing vessels.

Convention concerning the Medical Examination of Fishermen, 1959

SHORT TITLE

C 113 Medical Examination of Fishermen

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to ensure that no person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea, signed by a medical practitioner who shall be approved by the competent authority

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

29 (as on 24 March 2005)

CONTENTS

13 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term fishing vessel includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. The competent authority may, after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist, grant exemptions from the application of the provisions of this Convention in respect of vessels which do not normally remain at sea for periods of more than three days.
3. This Convention shall not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation

Article 2

No person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea signed by a medical practitioner who shall be approved by the competent authority.

Article 3

1. The competent authority shall, after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate.

Labour

2. When prescribing the nature of the examination, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed.
3. In particular the medical certificate shall attest that the person is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.

KEYWORDS

Fishing vessel, maritime fishing, fishermen, organization, convention, employment, health and safety, certification, medical examination

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention defines “fishing vessel” to include all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

It states that no person shall be engaged for employment in any capacity on a

fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea. The Convention also requires that persons under 21 years of age should undertake medical examination on an annual basis. It asks the competent authority to prescribe the nature of the medical examination and the particulars to be included in the medical certificate.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Exemptions are possible under this Convention, as it states that “the competent authority may, after consultation with fishing-boat owners’ and fishermen’s organizations, grant exemptions from the application of the provisions of this Convention in respect of vessels which do not normally remain at sea for periods of more than three days.” Though many countries require medical certificates for fishermen, this requirement is likely to be applied to those considered “employees” of a vessel owner; it is less likely to be applied to small-scale vessel owners or those working on a share basis engaged in the informal sector.

Convention concerning Fishermen's Articles of Agreement

SHORT TITLE

C 114 Fishermen's Articles of Agreement Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Calls for national law to prescribe such further formalities and safeguards in respect of the completion of the agreement as may be considered necessary for the protection of the interests of the owner of the fishing vessel and of the fisherman

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

22 (as on 24 March 2005)

CONTENTS

20 articles. Details the information to be provided in the agreement (such as wages, capacity of employment, duration), the terms for termination.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENTS

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention, the term fishing vessel includes all registered or documented ships and boats of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. The competent authority may exempt from the application of the provisions of this Convention fishing vessels of a type and size determined after consultation with the fishing-boat owners' and fishermen's organizations concerned, where such exist.
3. The competent authority may, if satisfied that the matters dealt with in this Convention are adequately regulated by collective agreements between fishing-boat owners or fishing-boat owners' organizations, and fishermen's organizations, exempt from the provisions of the Convention concerning individual agreements owners and fishermen covered by such collective agreements.

Article 6

1. The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.
2. The agreement shall state clearly the respective rights and obligations of each of the parties.
3. It shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact

Labour

that the matter is regulated in another manner by national laws or regulations:

- (a) the surname and other names of the fisherman, the date of his birth or his age, and his birthplace;
- (b) the place at which and date on which the agreement was completed;
- (c) the name of the fishing vessel or vessels on board which the fisherman undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisherman is to be employed;
- (f) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisherman, unless some alternative system is provided for by national law;
- (h) the amount of his wages, or the amount of his share and the method of calculating such share if he is to be remunerated on a share basis, or the amount of his wage and share and the method of calculating the latter if he is to be remunerated on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, that is to say:
 - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
 - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisherman shall be discharged;

- (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission: Provided that such period shall not be less for the owner of the fishing vessel than for the fisherman;
- (j) any other particulars which national law may require.

Article 9

An agreement entered into for a voyage, for a definite period, or for an indefinite period, shall be duly terminated by:

- (a) mutual consent of the parties;
- (b) death of the fisherman;
- (c) loss or total unseaworthiness of the fishing vessel;
- (d) any other cause that may be provided for in national law.

KEYWORDS

ILO, fishing vessel, fisherman, agreement, employment, convention, maritime fishing, rights, legislation

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention is meant to safeguard the interests of both the fishermen—defined to include every person employed or engaged in any capacity on board any fishing vessel and entered on the ship's articles—and the owners of the fishing vessels.

It calls for articles of agreement to be signed both by the owner of the fishing vessel or his authorized representative and by the fisherman, who shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent public authority.

It states that the agreement should contain the respective rights and obligations of each of the parties, and

contain the prescribed particulars, such as: the voyage or voyages to be undertaken; the scale of provisions to be supplied to the fishermen; the amount of his wages or his share and the method of calculating such share; as well as the termination of the agreement and the conditions thereof.

Exemptions from the provisions of the Convention concerning individual agreements, between owners and fishermen are possible, if there are collective agreements between fishing-boat owners' organizations and fishermen's organizations.

Convention concerning Fishermen's Certificates of Competency

SHORT TITLE

C 125 Fishermen's Competency
Certificates Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To set international standards specifying minimum requirements for certificates of competency for service in fishing vessels

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

15 July 1969

RATIFICATIONS

Ten (as on 24 March 2005)

CONTENTS

23 articles

INITIATING BODY

International Labour Organization (ILO)

ADDITIONAL INFORMATION

The Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) Convention of the International Maritime Organization (IMO) also contains some of the provisions listed in this Convention. The Convention adopted in 1995 contains detailed requirements (in the annex)

concerning skippers and watchkeepers on vessels of 24 m in length and over, chief engineers and engineering officers on vessels of 750 kw propulsion power or more, and personnel in charge of radio communications. It also includes requirements for basic safety training for all fishing vessel personnel (Chapter III of the Annex).

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 2

The competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, exempt from this Convention fishing vessels engaged in inshore fishing, as defined by national laws and regulations.

Article 4

Each Member that ratifies this Convention shall establish standards of qualification for certificates of competency entitling a person to perform the duties of skipper, mate or engineer on board a fishing vessel.

Article 6

1. The minimum age prescribed by national laws or regulations for the issue of a certificate of competency shall be not less than:
 - (a) 20 years in the case of a skipper;
 - (b) 19 years in the case of a mate;
 - (c) 20 years in the case of an engineer.
2. For the purpose of service as a skipper or mate in a fishing vessel engaged in inshore fishing and for

the purpose of service as an engineer in small fishing vessels with an engine power below a level to be determined by the competent authority after consultation with the fishing vessel owners' and fishermen's organizations, where such exist, the minimum age may be fixed at 18 years.

Article 7

The minimum professional experience prescribed by national laws or regulations for the issue of a mate's certificate of competency shall be not less than three years' sea service engaged in deck duties.

Article 8

1. The minimum professional experience prescribed by national laws or regulations for the issue of a skipper's certificate of competency shall be not less than four years' sea service engaged in deck duties.
2. The competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, require a part of this period to be served as a certificated mate; where national laws or regulations provide for the issue of different grades of certificates of competency, full and limited, to skippers of fishing vessels, the nature of the qualifying service as a certificated mate or the type of certificate held while performing such qualifying service may vary accordingly.

Article 9

1. The minimum professional experience prescribed by national laws or regulations for the issue of an engineer's certificate of competency shall be not less than

three years' sea service in the engine-room.

2. In the case of a certificated skipper or mate a shorter qualifying period of sea service may be prescribed.
3. In the case of the small fishing vessels referred to in Article 6, paragraph 2, of this Convention, the competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, prescribe a qualifying period of sea service of 12 months.
4. Work in an engineering workshop may be regarded as equivalent to sea service for part of the qualifying periods provided for in paragraphs 1 to 3 of this Article.

KEYWORDS

Fishing vessels, navigation, competence, certification, minimum age, training, ILO, convention

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention establishes standards of qualification for certificates of competency entitling a person to perform the duties of skipper, mate or engineer on board a fishing vessel over 100 gross registered tonnes. It also prescribes the minimum age and minimum professional experience required.

The Convention states that, in the case of small fishing vessels (excluding inshore fishing vessels), the competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, prescribe a qualifying period of sea service of 12 months, for the issue of an engineer's certificate of competency.

Convention concerning Accommodation on Board Fishing Vessels

SHORT TITLE

C 126 Accommodation of Crews (Fishermen) Convention, 1966

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to set out standards for the planning and control of crew accommodation and the requirements for the crew accommodation for vessels above 75 gross registered tonnes

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

6 November 1968

RATIFICATIONS

22 (as on 24 March 2005)

CONTENTS

26 articles divided into five parts as follows:

- Part I. General Provisions
- Part II. Planning and Control of Crew Accommodation
- Part III. Crew Accommodation Requirements
- Part IV. Application to Existing Ships
- Part V. Provisions

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Part I. General Provisions

Article 1

1. This Convention applies to all sea-going mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which this Convention is in force.
2. National laws or regulations shall determine when ships and boats are to be regarded as seagoing for the purpose of this Convention.
3. This Convention does not apply to ships and boats of less than 75 tons: Provided that the Convention shall be applied to ships and boats of between 25 and 75 tons where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that this is reasonable and practicable.
4. The competent authority may, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, use length instead of tonnage as a parameter for the purposes of this Convention, in which event the Convention does not apply to ships and boats of less

than 80 feet (24.4 metres) in length: Provided that the Convention shall be applied to ships and boats of between 45 and 80 feet (13.7 and 24.4 metres) in length where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that this is reasonable and practicable.

5. This Convention does not apply to—
 - (a) ships and boats normally employed in fishing for sport or recreation;
 - (b) ships and boats primarily propelled by sail but having auxiliary engines;
 - (c) ships and boats engaged in whaling or similar pursuits;
 - (d) fishery research and fishery protection vessels.

6. The following provisions of this Convention do not apply to vessels that normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port:
 - (a) Article 9, paragraph 4;
 - (b) Article 10;
 - (c) Article 11;
 - (d) Article 12;
 - (e) Article 13, paragraph 1;
 - (f) Article 14;
 - (g) Article 16;

7. The provisions of Part III of this Convention may be varied in the case of any vessel if the competent authority is satisfied, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that the

variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the Convention; particulars of all such variations shall be communicated by the Member to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organization.

KEYWORDS

Accommodation, labour, crew, ILO, fishing vessels

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention stipulates conditions of accommodation on board fishing vessels, i.e., all seagoing mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

It applies to ships and boats of more than 75 tonnes (or where length is used as a criteria, above 24.4 m). However, it can be applied to vessels between 25 and 75 tonnes (or 13.7 and 24.4 m), if the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations, where such exist.

The requirements for crew accommodation are extensively covered to include location, construction material, drainage, ventilation, heating, lighting, sleeping room size, mess rooms, sanitary accommodation, sick bays and medical chests.

Convention concerning Minimum Age for Admission to Employment, 1973

SHORT TITLE

C 138 Minimum Age Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons

DATE OF ADOPTION

26 June 1973

PLACE OF ADOPTION

58th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

19 June 1976

RATIFICATIONS

135 (as on 24 March 2005)

CONTENTS

18 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

In 1999, the International Labour Conference adopted the Worst Forms of

Child Labour Convention (No. 182) supplemented by a Recommendation (No. 190), to address the issue of minimum age in different sectors. According to this instrument, the term “child” applies to all persons under the age of 18, and aims at the prohibition and elimination of the worst forms of child labour.

SELECTED ARTICLES

Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age

of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organization a statement:
 - (a) that its reason for doing so subsists; or
 - (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is:
 - (a) not likely to be harmful to their health or development; and
 - (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.
2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work

which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

1. After consultation with the organizations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

Labour

2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10

4. When the obligations of this Convention are accepted—
 - (e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member

specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall *ipso jure* involve the immediate denunciation of that Convention.

KEYWORDS

Fishing, ILO, child labour, convention, minimum age, fishermen

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention specifies the minimum age of employment in maritime fishing, as not less than 15 years. It asks States to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. The Convention sets the minimum age, depending on the type of employment or work—in the case of light work, not less than 13 years, or hazardous work, not less than 18 years.

Hours of Work (Fishing) Recommendation, 1920

SHORT TITLE

R 007 Hours of Work

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To limit the hours of work in all industrial undertakings, including transport by sea and, under conditions to be determined, transport by inland waterways, to eight hours in the day and forty-eight in the week

DATE OF ADOPTION

9 July 1920

PLACE OF ADOPTION

2nd session of the International Labour Conference, Genoa

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

In view of the declaration in the Constitution of the International Labour Organization that all industrial communities should endeavour to adopt,

so far as their special circumstances will permit, an eight hours' day or a forty-eight hours' week as the standard to be aimed at where it has not already been attained, the International Labour Conference recommends that each Member of the International Labour Organization enact legislation limiting in this direction the hours of work of all workers employed in the fishing industry, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country; and that in framing such legislation, each Government consult with the organizations of employers and the organizations of workers concerned.

KEYWORDS

Working hours, fishing industry, legislation, organizations, ILO

RELEVANCE TO FISHERIES/ FISHWORKERS

The Recommendation asks States to enact a legislation, limiting the hours of work of all workers employed in the fishing industry to an eight- hour day or a forty-eight hour week as the standard to be aimed at where it has not already been attained, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country.

Recommendation concerning the Vocational Training of Fishermen

SHORT TITLE

R 126 Vocational Training (Fishermen)
Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

Provides guidance for the training of fishermen

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

10. The curricula of the various training programmes for fishermen should be based on a systematic analysis of the work required in fishing and should be established in co-operation with the joint bodies mentioned in Paragraph 5, subparagraph (3), of this Recommendation. They should be periodically reviewed and kept up to date with technical developments and should, as appropriate for the functions to be exercised, include training in—

- (a) fishing techniques, including where appropriate the operation and care of electronic fish-finding devices, and operation, maintenance and repair of fishing gear;
- (b) navigation, seamanship and ship handling appropriate to the sea area and to the type of fishing for which the course is designed, including a proper knowledge of the international Regulations for Preventing Collisions at Sea;
- (c) stowage, cleaning and processing of fish on board;
- (d) vessel maintenance and other related matters;
- (e) operation, maintenance and repair of steam or internal combustion (gasoline or diesel) engines or other equipment which the trainee may be called upon to use;
- (f) operation and care of radio and radar installations which the trainee may be called upon to use;
- (g) safety at sea and safety in handling fishing gear, including such matters as stability, effects of icing, fire fighting, water-tight integrity, personal safety, gear and machinery safeguards, rigging safety measures, engine-room safety, lifeboat handling, use of inflatable life rafts, first aid and medical care and other related matters;
- (h) theoretical subjects relevant to fishing, including marine biology and oceanography, which will enable trainees to gain a broad foundation for further instruction

- and training leading to promotion or to transfer to another fishing occupation or another type of fishing;
- (i) general education subjects, although this may be provided for to a more limited extent in short courses;
 - (j) operation, maintenance and repair of refrigeration systems, fire-fighting equipment, deck and trawling winches and other mechanical equipment of fishing vessels;
 - (k) principles of shipboard electrical power installations, and maintenance and repair of the electrical machinery and equipment of fishing vessels;
 - (l) health and physical education, especially swimming, where training facilities permit; and
 - (m) specialised courses in deck, engine and other subjects after an introductory period of general fishing instruction.
16. Training courses should be available for working fishermen to enable them to increase their technical skills and knowledge, to keep abreast of improved fishing and navigation techniques, and to qualify for promotion.
- 17.
- (1) Training courses for working fishermen should be specifically designed for the purpose of—
 - (a) complementing the basic long-term courses by providing advanced specialised training for promotion;
 - (b) providing training in fishing techniques new to the area; in operating, maintaining and repairing new types of engines or gear; and in making gear where appropriate;
 - (c) providing all levels of training for fishermen who were unable to participate in a basic long-term training course;
 - (d) providing accelerated training in developing countries.
 - (2) The courses should be of short duration and should be considered to be complementary to and not substitutes for basic long-term training programmes.
18. The courses, which may take the form of mobile courses bringing instructors and demonstration equipment to fishing centres, should in particular consist of programmes involving—
- (a) evening courses;
 - (b) seasonal courses offered during stormy months or slack fishing periods; or
 - (c) daytime courses for which fishermen temporarily leave their work for short periods.

KEYWORDS

ILO, crew, accommodation, fishermen, fishermen organizations, training, safety at sea, fishing industry

RELEVANCE TO FISHERIES/ FISHWORKERS

This instrument recommends that vocational training of fishermen should be of a standard equivalent to that provided for other trades, occupations and industries to improve the efficiency of the fishing industry and to secure general recognition of the economic and social significance of fishing to the national economy.

Labour

It aims to encourage the entry into the fishing industry of a sufficient number of suitable persons; to provide training and retraining facilities commensurate with the current and projected manpower needs of the fishing industry for all the various fishing occupations; to help trainees get jobs in the sector after completing their courses; to help them reach their highest productive and earning capacity and to improve the standards of safety on board fishing vessels.

Convention concerning Forced or Compulsory Labour

SHORT TITLE

C29 Forced Labour Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To suppress the use of forced or compulsory labour in all its forms within the shortest possible period

DATE OF ADOPTION

28 June 1930

PLACE OF ADOPTION

14th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

1 May 1932

RATIFICATIONS

164 (as on 24 March 2005)

CONTENTS

33 Articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.

3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include—

- (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
- (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
- (c) any work or service exacted from any person as a consequence of

Labour

a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

- (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
- (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself—

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;
- (b) that the work or service is of present or imminent necessity;

(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

(d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself—
 - (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
 - (b) that the work or the service is of present or imminent necessity;
 - (c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
 - (d) that the work or service will not entail the removal of the workers

from their place of habitual residence;

- (e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:

- (a) whenever possible, prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
- (b) exemption of school teachers and pupils and officials of the administration in general;
- (c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
- (d) respect for conjugal and family ties.

2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case

exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, *inter alia*, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form

Labour

of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.
3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where

hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

KEYWORDS

Forced labour, employment, compulsory labour, hours of work, conditions of work, health

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention asks Members to suppress the use of forced or compulsory labour in all its forms. It defines forced labour as “all work or service, which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In the case of the fisheries sector, it will be applicable to all situations where forced or bonded labour, including child labour, are used in fishery operations.

Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value

SHORT TITLE

C 100 Equal Remuneration Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Provides for equal remuneration for men and women workers for work of equal value

DATE OF ADOPTION

29 June 1951

PLACE OF ADOPTION

34th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

23 May 1953

RATIFICATIONS

161 (as on 24 March 2005)

CONTENTS

14 Articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

For the purpose of this Convention

- a. the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- b. the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means
 - a. of national laws or regulations;
 - b. legally established or recognized machinery for wage determination;
 - c. collective agreements between employers and workers;
 - d. or a combination of these various means.

Labour

KEYWORDS

Remuneration, women, income, employment, discrimination, wages, regulations, minimum wage, collective agreements

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention asks Members to ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. It also asks Members to take measures to promote objective appraisal of jobs on the basis of work to be performed. The Convention applies to basic wages or salaries and to any

additional emoluments whatsoever, payable directly or indirectly, in cash or in kind, by the employer to the worker and arising out of his or her employment. The Convention defines equal remuneration for work of equal value as remuneration established without discrimination based on sex.

The Convention could be of relevance in ensuring that women employed in the fisheries sector, in fishery operations or in processing and related work, receive equal remuneration for work of equal value. Reports from the fish-processing sector indicate that this has yet to be ensured.

Convention concerning Discrimination in Respect of Employment and Occupation

SHORT TITLE

C 111 Discrimination (Employment and Occupation) Convention

ADDITIONAL INSTRUMENTS

Complemented by C143 Migrant Workers Convention, 1975

LEGAL STATUS

Binding

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term discrimination includes—
 - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
 - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof

DATE OF ADOPTION

25 June 1958

PLACE OF ADOPTION

31st session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

15 June 1960

RATIFICATIONS

160 (as on 24 March 2005)

CONTENTS

14 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

Labour

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—

- (a) to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the

action taken in pursuance of the policy and the results secured by such action.

Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

KEYWORDS

Discrimination, women, human rights, employment, family responsibilities, training, workers, family, occupation

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention calls for a national policy to eliminate discrimination in access to employment, equality of opportunity, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, and to promote equality of opportunity and treatment.

The Convention asks States to promote equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation. This Convention is thus of relevance to all workers, including those in the fisheries sector.

Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities

SHORT TITLE

C 156 Workers with Family Responsibilities Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities

DATE OF ADOPTION

23 June 1981

PLACE OF ADOPTION

67th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

11 August 1983

RATIFICATIONS

36 (as on 24 March 2005)

CONTENTS

14 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
3. For the purposes of this Convention, the terms dependent child and other member of the immediate family who clearly needs care or support mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention.
4. The workers covered by virtue of paragraphs 1 and 2 of this Article are hereinafter referred to as workers with family responsibilities.

Article 2

This Convention applies to all branches of economic activity and all categories of workers.

Article 3

1. With a view to creating effective equality of opportunity and

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treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

2. For the purposes of paragraph 1 of this Article, the term discrimination means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

Article 4

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken—

- (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) to take account of their needs in terms and conditions of employment and in social security.

Article 5

All measures compatible with national conditions and possibilities shall further be taken—

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

KEYWORDS

Family responsibility, discrimination, employment, labour, income, women, family, social security, training, right, policy, legislation, child care, community planning, working conditions

RELEVANCE TO FISHERIES/ FISHWORKERS

Article 3 states that each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. It also asks Members to take measures that would enable workers with family responsibilities to exercise their right to free choice of employment and to take into account the terms and conditions of employment and social security.

The Convention asks Members to take appropriate measures to promote information and education that engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

The Convention is thus of relevance to all workers with family responsibilities, including those in the fisheries sector. Women of fishing communities, for instance, often have the responsibility of taking care of the family and earning an income too.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

SHORT TITLE

C 182 Worst Forms of Child Labour Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency

CONTENTS

16 articles

DATE OF ADOPTION

17 June 1999

PLACE OF ADOPTION

87th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

19 November 2000

RATIFICATIONS

150 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Supplemented by R190
Complemented by the Worst Forms of Child Labour Recommendation, 1999

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

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Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

KEYWORDS

Child labour, education, employer, girl child, health, minimum age, poverty, standards

RELEVANCE TO FISHERIES/ FISHERWORKERS

According to this Convention, the term "child" refers to anyone below the age of 18, and the worst form of child labour includes work, which, by nature of its circumstances, is likely to harm the health, safety or morals of children. It also includes slavery or practices of slavery and trafficking.

The Convention calls upon Members to design and implement programmes of action to eliminate, as a priority, the worst forms of child labour and establish or designate "appropriate mechanisms" for monitoring implementation of the Convention, in consultation with employers' and workers' organizations.

It calls upon Governments to ensure access to free basic education, and, wherever possible, appropriate vocational training. It also takes into account the special situation of the girl child.

There have been several reports of the use of child labour in the fisheries sector, as in the Lake Volta, the *paaling* deep-sea fishing of the Philippines, and shellfish harvesting in El Salvador, and the *jermal* fishing in Indonesia.

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour

SHORT TITLE

R 190 Worst Forms of Child Labour Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

Aims to provide measures that supplement those of the Worst Forms of Child Labour Convention

CONTENTS

16 paragraphs

DATE OF ADOPTION

17 June 1999

PLACE OF ADOPTION

87th session of the International Labour Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

I. Programmes of action

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and

employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such

programmes should aim at, *inter alia*:
(a) identifying and denouncing the worst forms of child labour;

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;

(c) giving special attention to:

(i) younger children;

(ii) the girl child;

(iii) the problem of hidden work situations, in which girls are at special risk;

(iv) other groups of children with special vulnerabilities or needs;

(d) identifying, reaching out to and working with communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

II. Hazardous work

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where

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they exist, consideration should be given, *inter alia*, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, underwater, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize

employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

KEYWORDS

Child labour, education, employer, girl child, health, minimum age, poverty, standards

RELEVANCE TO FISHERIES/ FISHWORKERS

The Recommendation provides measures that supplement the Worst Forms of Child Labour Convention. It urges Governments to take measures to eliminate the worst forms of child labour and asks them to give special attention to younger children and the girl child. It also recommends identifying, and reaching out to, and working with, communities where children are at risk. In line with Article 3(d) of the Convention, it identifies some of the worst forms of child labour. There are several reported cases of the use of child labour in fisheries operations, for which the measures of this Recommendation would apply.

Convention concerning the Protection of Wages

SHORT TITLE

C 95 Protection of Wages Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide proposals for the protection of wages

CONTENTS

27 articles

DATE OF ADOPTION

1 July 1949

PLACE OF ADOPTION

32nd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

24 September 1952

RATIFICATIONS

95 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

The Convention was partially revised in 1992 by Convention No 173. The Convention is supplemented by the Protection of Wages Recommendation, R 85.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE CONVENTION

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The Convention No. 173 on Protection of Workers' Claims (Employer's Insolvency) revised Article 11 of this Convention, dealing with the protection of workers' claim in the event of the bankruptcy or judicial liquidation of an undertaking.

SELECTED ARTICLES

Article 1

In this Convention, the term wages means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.

Article 2

1. This Convention applies to all persons to whom wages are paid or payable.
2. The competent authority may, after consultation with the organizations of employers and employed persons directly concerned, if such exist, exclude from the application of all or any of the provisions of the Convention categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are not employed in manual labour or are employed in domestic service or work similar thereto.

Labour

Article 3

1. Wages payable in money shall be paid only in legal tender, and payment in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, shall be prohibited.
2. The competent authority may permit or prescribe the payment of wages by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned.

Article 4

1. National laws or regulations, collective agreements or arbitration awards may authorize the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned; the payment of wages in the form of liquor of high alcoholic content or of noxious drugs shall not be permitted in any circumstances.
2. In cases in which partial payment of wages in the form of allowances in kind is authorized, appropriate measures shall be taken to ensure that—
 - (a) such allowances are appropriate for the personal use and benefit of the worker and his family; and
 - (b) the value attributed to such allowances is fair and reasonable.

Article 5

Wages shall be paid directly to the worker concerned except as may be otherwise

provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to the contrary.

Article 6

Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.

Article 7

1. Where works stores for the sale of commodities to the workers are established or services are operated in connection with an undertaking, the workers concerned shall be free from any coercion to make use of such stores or services.
2. Where access to other stores or services is not possible, the competent authority shall take appropriate measures with the object of ensuring that goods are sold and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

Article 8

1. Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.
2. Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.

Article 9

Any deduction from wages with a view to ensuring a direct or indirect payment for

the purpose of obtaining or retaining employment, made by a worker to an employer or his representative or to any intermediary (such as a labour contractor or recruiter), shall be prohibited.

Article 10

1. Wages may be attached or assigned only in a manner and within limits prescribed by national laws or regulations.
2. Wages shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family.

KEYWORDS

Allowances, employment, payments, regulations, wages, income, remuneration, worker

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention deals in a comprehensive manner with all practical aspects of labour remuneration, and also seeks to

grant the fullest possible protection to workers' earnings. The Convention applies to all persons to whom wages are paid or are payable. Article 2 (2) allows for exemptions. The Convention asks each Member to indicate, under its first annual report upon application of this Convention, the categories of persons it proposes to exclude from the application of any of the provisions. The Convention addresses such issues as wage payment in legal tender; payment in kind; freedom of workers to dispose wages; wage deduction; attachment or assignment of wages; periodicity, time and place of wage payments; notification of wage conditions; statement of earnings; and implementation. The Convention covers wage employment in all sectors, including the fisheries sector. There have been many reports of non-payment of wages, for example, of crew on board distant-water fishing vessels. There have also been reports of deductions for intermediaries/labour contractors, supplying crew, workers in processing plants, and so on.

Convention concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer

SHORT TITLE

C 173 Protection of Workers' Claims (Employer's Insolvency) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide for the protection of workers' claims in the event of the insolvency of their employer

CONTENTS

22 articles

DATE OF ADOPTION

23 June 1992

PLACE OF ADOPTION

79th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

8 June 1995

RATIFICATIONS

16 (as on 24 March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 3

1. A Member which ratifies this Convention shall accept either the obligations of Part II, providing for the protection of workers' claims by means of a privilege, or the obligations of Part III, providing for the protection of workers' claims by a guarantee institution, or the obligations of both Parts. This choice shall be indicated in a declaration accompanying its ratification.
2. A Member which has initially accepted only Part II or only Part III of this Convention may thereafter, by a declaration communicated to the Director-General of the International Labour Office, extend its acceptance to the other Part.
3. A Member which accepts the obligations of both Parts of this Convention may, after consulting the most representative organizations of employers and workers, limit the application of Part III to certain categories of workers and to certain branches of economic activity. Such limitations shall be specified in the declaration of acceptance.
4. A Member which has limited its acceptance of the obligations of Part III in accordance with paragraph 3 above shall, in its first report under article 22 of the Constitution of the International Labour Organization, give the reasons for limiting its

acceptance. In subsequent reports it shall provide information on any extension of the protection under Part III of this Convention to other categories of workers or other branches of economic activity.

5. A Member which has accepted the obligations of Parts II and III of this Convention may, after consulting the most representative organizations of employers and workers, exclude from the application of Part II those claims which are protected pursuant to Part III.
6. Acceptance by a Member of the obligations of Part II of this Convention shall *ipso jure* involve the termination of its obligations under Article 11 of the Protection of Wages Convention, 1949.
7. A Member which has accepted only the obligations of Part III of this Convention may, by a declaration communicated to the Director-General of the International Labour Office, terminate its obligations under Article 11 of the Protection of Wages Convention, 1949, in respect of those claims which are protected pursuant to Part III.

Article 5

In the event of an employer's insolvency, workers' claims arising out of their employment shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share.

KEYWORDS

Employment, insolvency, payments, wages, claims, economic activity

RELEVANCE TO FISHERIES/ FISHWORKERS

Article 3 of the Convention provides two approaches to the protection of workers: one provides for the protection of workers' claims by a privilege; the other provides for protection by wage guarantee institutions. It also provides for exemption of certain categories after consultation with the representative organizations of employers and workers. According to this Convention, the State is obliged to establish a system of privilege so that workers are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share. The Convention applies in principle to all employees and all branches of economic activity, including the fisheries sector.

Convention concerning Minimum Wage Fixing, with Special Reference to Developing Countries

SHORT TITLE

C 131 Minimum Wage Fixing Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide protection for wage earners against unduly low wages, which, while of general application, pays special regard to the needs of developing countries

To establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate

CONTENTS

14 Articles

DATE OF ADOPTION

22 June 1970

PLACE OF ADOPTION

54th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

29 April 1972

RATIFICATIONS

46 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Recommendation No.135 (Minimum Wage Fixing Recommendation)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The Committee of Experts noted in its 1992 General Survey that "...minimum wage may be understood to mean the minimum wage payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions."

SELECTED ARTICLES

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate.
2. The competent authority in each country shall, in agreement or after full consultation with the representative organizations of employers and workers concerned, where such exist, determine the groups of wage earners to be covered.
3. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization any groups of

wage earners which may not have been covered in pursuance of this Article, giving the reasons for not covering them, and shall state in subsequent reports the positions of its law and practice in respect of the groups not covered, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such groups.

Article 2

1. Minimum wages shall have the force of law and shall not be subject to abatement, and failure to apply them shall make the person or persons concerned liable to appropriate penal or other sanctions.
2. Subject to the provisions of paragraph 1 of this Article, the freedom of collective bargaining shall be fully respected.

Article 3

The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include—

- (a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
- (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

Article 4

1. Each Member which ratifies this Convention shall create and/or maintain machinery adapted to national conditions and requirements whereby minimum

wages for groups of wage earners covered in pursuance of Article 1 thereof can be fixed and adjusted from time to time.

2. Provision shall be made, in connection with the establishment, operation and modification of such machinery, for full consultation with representative organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned.
3. Wherever it is appropriate to the nature of the minimum wage fixing machinery, provision shall also be made for the direct participation in its operation of—
 - (a) representatives of organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned, on a basis of equality;
 - (b) persons having recognized competence for representing the general interests of the country and appointed after full consultation with representative organizations of employers and workers concerned, where such organizations exist and such consultation is in accordance with national law or practice.

Article 5

Appropriate measures, such as adequate inspection reinforced by other necessary measures, shall be taken to ensure the effective application of all provisions relating to minimum wages.

KEYWORDS

Minimum wage, remuneration, employment, social security, workers, employers

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention lays down the obligation for ratifying States to establish a system of wages that covers all groups of wage earners whose terms of employment are such that coverage would be appropriate. The Convention allows the exclusion of one or more categories of wage earners, upon the consent of, or full consultation with, the representative organizations of employers and workers concerned. It provides the various elements that need to be taken into

consideration while determining the level of minimum wages, like the needs of workers and their families and national economic factors. The Convention has relevance for the fisheries sector, especially in cases where labour is employed for fishing and related activities such as fish processing. It is reported, for example, that women employed to peel shrimp or process fish in several developing countries, receive low wages, and work under difficult conditions, especially in the informal sector.

Convention concerning Occupational Safety and Health and the Working Environment

SHORT TITLE

C 155 Occupational Safety and Health Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims for the adoption of a national policy on occupational safety, occupational health and working environment

CONTENTS

30 articles

DATE OF ADOPTION

22 June 1981

PLACE OF ADOPTION

67th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

11 August 1983

RATIFICATIONS

42 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Recommendation No. 164 (Occupational Safety and Health Recommendation)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry in December 1999 concluded that "Governments should ratify the ILO's Occupational Safety and Health Convention, 1981 (No.155) and apply its provisions to the fishing industry".

SELECTED ARTICLES

Article 1

1. This Convention applies to all branches of economic activity.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organizations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

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Article 2

1. This Convention applies to all workers in the branches of economic activity covered.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organizations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization, any limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

PART II. PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

KEYWORDS

Health and safety, occupational health, fishing, shipping, safety at work, workplace, accidents, occupational safety

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention calls for measures to be taken to ensure tripartite participation in the formulation, implementation and review of policies, and practical measures for improving occupational safety, occupational health and the working environment. It requires States to formulate, implement and periodically review a national policy on occupational health, safety and working environment. It applies to all branches of economic activity and to all categories of workers, but also provides provisions for the exclusion of certain economic activities, such as maritime shipping or fishing, after consultations with representative organizations of employers and workers.

There is a clear need for improving occupational health and safety in fishing and fish-processing activities around the world, especially in developing countries. As such, the Convention will help countries adopt national policies on occupational safety, occupational health and the working environment.

Convention concerning Minimum Standards of Social Security

SHORT TITLE

C 102 Social Security (Minimum Standards) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide proposals with regard to minimum standards of social security

CONTENTS

87 Articles and Annex

DATE OF ADOPTION

28 June 1952

PLACE OF ADOPTION

35th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

27 April 1955

RATIFICATIONS

41 (as on 24 March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

At the 89th session of the International Labour Conference, a general discussion was held on social security, which is of particular relevance to artisanal and

small-scale fishworkers. The Conference adopted Conclusions, which stated that: "... of highest priority are policies and initiatives which can bring social security to those who are not covered by existing systems. In many countries, these include employees in small workplaces, the self-employed, migrant workers, and people—many of them women—active in the informal economy..."

The Conference further states that "...certain groups have different needs and some have very low contributory capacity. The successful extension of social security requires that these differences are taken into account..."

It adds that "while there is limited capacity to finance social security, either from general tax revenues or contributions—and particularly where there is no employer to pay a share of the contribution—priority should be given in the first instance to needs which are more pressing in the view of the groups concerned..."

SELECTED ARTICLES

PART II. MEDICAL CARE

Article 7

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

Article 8

The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

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PART III. SICKNESS BENEFIT

Article 13

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

Article 14

The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

PART IV. UNEMPLOYMENT BENEFIT

Article 19

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

Article 20

The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

PART V. OLD-AGE BENEFIT

Article 25

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

Article 26

1. The contingency covered shall be survival beyond a prescribed age.
2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

PART VI. EMPLOYMENT INJURY BENEFIT

Article 31

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

Article 32

The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

PART VII. FAMILY BENEFIT

Article 39

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

Article 40

The contingency covered shall be responsibility for the maintenance of children as prescribed.

PART VIII. MATERNITY BENEFIT

Article 46

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

Article 47

The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations, resulting therefrom.

PART IX. INVALIDITY BENEFIT

Article 53

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

Article 54

The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

PART X. SURVIVORS' BENEFIT

Article 59

Each Member for which this Part of this Convention is in force shall secure to the

persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

Article 60

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.
2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

PART XII. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS

Article 68

1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.
2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same

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rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

Article 77

1. This Convention does not apply to seamen or sea fishermen; provision for the protection of seamen and sea fishermen has been made by the International Labour Conference in the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946.
2. A Member may exclude seamen and sea fishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

KEYWORDS

Survivor benefits, maternity benefits, family benefits, invalidity benefits, pension, sickness benefits, medical care, payments, employment injury benefit, social security, wages

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention defines the principal branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit. It asks States to accept three of these branches to ratify the Convention. Social security is especially relevant to artisanal fishers (and their communities), who comprise the bulk of the world's fishers. This Convention stipulates minimum standards for their protection, and benefits, including their amount.

Convention concerning Home Work

SHORT TITLE

C 177 Convention concerning Home Work

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Applies to all persons carrying out homework, and asks Members to adopt, implement and periodically review a national policy on home work aimed at improving the situation of homeworkers

CONTENTS

18 articles

DATE OF ADOPTION

20 June 1996

PLACE OF ADOPTION

83rd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

22 April 2000

RATIFICATIONS

Four (as of March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

For the purpose of this convention:

(a) the term home work means work carried out by a person, to be referred to as a homeworker,

(i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;

(ii) for remuneration

(iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;

(b) persons with employee status do not become homeworkers within the meaning of this convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;

(c) the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

Article 2

The convention applies to all persons carrying out home work within the meaning of Article 1.

Article 3

Each Member which has ratified this convention shall adopt, implement and periodically review a national policy on home work aimed at improving the

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situation of homeworkers, in consultation with the most representative organizations of employers and workers and, where they exist with organizations concerned with homeworkers and those of employers of homeworkers.

Article 4

1. The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.
2. Equality of treatment shall be promoted, in particular, in relation to:
 - (a) the homeworker's right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
 - (b) protection against discrimination in employment and occupation;
 - (c) protection in the field of occupational safety and health;
 - (d) remuneration;
 - (e) statutory social security protection;
 - (f) access to training
 - (g) minimum age for admission to employment or work; and
 - (h) maternity protection,

Article 5

The national policy on homework shall be implemented by means of laws and regulations, collective agreements,

arbitration awards or in any other appropriate manner consistent with national practice

Article 6

Appropriate measures shall be taken so that labour statistics include, to the extent possible, home work

Article 7

National laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for reasons of safety and health.

KEYWORDS

Women, home work, workers, safety, health, remuneration, wage earners, policy

RELEVANCE TO FISHERIES/ FISHWORKERS

This Convention is of specific relevance to the fish-processing sector, where a number of women are employed in shrimp peeling and fish processing from home. This is a vast industry in developing countries like India and Thailand, though there are no official statistics on the number of women employed in such activities. These women are also entitled to some of the benefits listed in the Convention. Article 4 of the Convention calls for statutory social security protection and minimum age requirements for admission to work, and maternity protection.

Recommendation concerning Home Work

SHORT TITLE

R 184 Recommendation concerning Home Work

LEGAL STATUS

Non-Binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To improve particular conditions characterizing home work and to supplement the convention by standards which take into account the special characteristics of home work

CONTENTS

XIII sections

DATE OF ADOPTION

20 June 1996

PLACE OF ADOPTION

83rd session of the International Labour Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

iii. Supervision of home work

7. (1) Employers should be required to notify the competent authority when the give out home work for the first time.
- (2) Employers shall keep a register of all homeworkers, classified according to sex, to whom they give work

- (3) Employers should also keep a record of work assigned to a homeworker which shows:
 - (a) the time allocated
 - (b) the rate of remuneration;
 - (c) costs incurred, if any, by the homeworker and the amount reimbursed in respect of them;
 - (d) any detections made in accordance with national laws and regulations and
 - (e) the gross remuneration due and the net remuneration paid, together with the date of payment.

V. Remuneration

13. Minimum rates of wages should be fixed for home work, in accordance with national law and practice
14. (1) Rates of remuneration should be fixed preferably by collective bargaining or in its absence by
 - (a) decisions of the competent authority, after consulting the most representative organizations of employers and of workers as well as organizations, concerned with homeworkers and those of employers of homeworkers, or where the latter organizations do not exist, representatives of homeworkers and of employers of homeworkers; or
 - (b) other appropriate wage-fixing machinery at the national, sectoral or local levels.
15. For specified work paid by piece, the rate of remuneration of a homeworker should be comparable to that received

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by a worker in the enterprise of the employer, or if there is no such worker, in other enterprise in the branch of activity or region concerned.

17. (1) National laws and regulations concerning the protection of wages should apply to homeworkers.

VIII. Hours of work, rest period and leave

23. A deadline to complete a work assignment should not deprive a homeworker of the possibility to have daily and weekly rest comparable to that enjoyed by other workers.

24. National laws and regulations should establish the conditions under which homeworkers should be entitled to benefit, as other workers, from paid public holidays, annual holidays with pay and paid sick leave.

IX. Social security and maternity protection

25. Homeworkers should benefit from social security protection. This could be done by:

- (a) extending existing social security provisions to homeworkers
- (b) adapting social security schemes to cover homeworkers; or
- (c) developing special schemes or funds for homeworkers.

26. National laws and regulations in the field of maternity protection should apply to homeworkers.

KEYWORDS

Home workers, safety, health, remuneration, social security, maternity protection

RELEVANCE TO FISHERIES/ FISHWORKERS

This Recommendation asks States to implement national laws and regulations to protect wages, even for home workers. It also defines home workers and calls for application of national social security schemes and maternity protection benefits to them. This Recommendation is of relevance to fishworkers, especially for women employed in home-based fish processing and in the shrimp peeling industry.

Convention concerning Night Work of Women Employed in Industry (Revised 1948)

SHORT TITLE

C 89 Night Work (Women) Convention
(Revised)

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to ensure that women, without distinction of age, shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed

DATE OF ADOPTION

9 July 1948

PLACE OF ADOPTION

31st session of the International Labour Conference at San Francisco, US

DATE OF ENTRY INTO FORCE

27 February 1951

RATIFICATIONS

65 (as on 24 March 2005)

CONTENTS

20 articles divided into three parts as follows:

Part I. General Provisions

Part II. Special Provisions for certain countries

Part III. Final Provisions

ADDITIONAL INSTRUMENTS

Complemented by the P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Part I. General Provisions

Article 1

1. For the purpose of this Convention, the term industrial undertakings includes particularly:
 - (a) mines, quarries, and other works for the extraction of minerals from the earth;
 - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;
 - (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.
2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

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Article 2

For the purpose of this Convention the term night signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Article 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4

Article 3 shall not apply:

- (a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;
- (b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration when

such night work is necessary to preserve the said materials from certain loss.

Article 5

1. The prohibition of night work for women may be suspended by the government, after consultation with the employers' and workers' organizations concerned, when in case of serious emergency the national interest demands it.
2. Such suspension shall be notified by the government concerned to the Director-General of the International Labour Office in its annual report on the application of the Convention.

KEYWORDS

Night work, women, labour, hours of work, working conditions, industries, regulations, industrial undertakings

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention is of relevance to fish processing industries where women are employed. Article 3 prohibits women being employed at night in industrial undertakings. However, Article 4 states that this prohibition shall not apply where work is with raw materials that are subject to rapid deterioration, which could possibly include fish.

Protocol of 1990 to the Convention concerning Night Work of Women Employed in Industry (Revised 1948)

SHORT TITLE

P89 Protocol of 1990 to the Night Work (Women) Convention (Revised)

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Protocol

OBJECTIVES

Aims to ensure that national laws or regulations, adopted after consulting the most representative organizations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority

DATE OF ADOPTION

26 June 1990

PLACE OF ADOPTION

77th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

26 June 1990

RATIFICATIONS

Four (as on 24 March 2005)

CONTENTS

5 Articles

ADDITIONAL INSTRUMENTS

Complementary to the C089 Night Work (Women) Convention (Revised), 1948

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. (1) National laws or regulations, adopted after consulting the most representative organizations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority:
 - (a) in a specific branch of activity or occupation, provided that the organizations representative of the employers and the workers concerned have concluded an agreement or have given their agreement;
 - (b) in one or more specific establishments not covered by a decision taken pursuant to clause (a) above, provided that:
 - (i) an agreement has been concluded in the establishment or enterprise concerned between the employer and the workers' representatives concerned; and
 - (ii) the organizations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organiza-

tions of employers and workers have been consulted;

- (c) in a specific establishment not covered by a decision taken pursuant to clause (a) above, and where no agreement has been reached in accordance with clause (b) (i) above, provided that:

(i) the workers' representatives in the establishment or enterprise as well as the organizations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organizations of employers and workers have been consulted;

(ii) the competent authority has satisfied itself that adequate safeguards exist in the establishment as regards occupational safety and health, social services and equality of opportunity and treatment for women workers; and

(iii) the decision of the competent authority shall apply for a specified period of time, which may be renewed by means of the procedure under subclauses (i) and (ii) above,

(2) For the purposes of this paragraph the term "workers' representatives" means persons who are recognized as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

2. The laws or regulations referred to in paragraph 1 shall determine the circumstances in which such variations and exemptions may be permitted and the conditions to which they shall be subject.

Article 2

1. It shall be prohibited to apply the variations and exemptions permitted pursuant to Article 1 above to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth. National laws or regulations may allow for the lifting of this prohibition at the express request of the woman worker concerned on condition that neither her health nor that of her child will be endangered.
2. The prohibition provided for in paragraph 1 of this Article shall also apply to additional periods in respect of which a medical certificate is produced stating that this is necessary for the health of the mother or child:
 - (a) during pregnancy;
 - (b) during a specified time prolonging the period after childbirth fixed pursuant to paragraph 1 above.
3. During the periods referred to in paragraphs 1 and 2 of this Article:
 - (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
 - (b) the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured through assignment to day work, extended maternity leave, social security benefits or any other appropriate measure, or through a combination of these measures.
4. The provisions of paragraphs 1, 2 and 3 of this Article shall not have the

effect of reducing the protection and benefits connected with maternity leave.

KEYWORDS

Night work, women, labour, maternity protection, working conditions, workers organizations, occupational health, occupational safety, regulations

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention is of relevance to fish-processing industries, where a large

number of women are employed. The Convention states that Members could adopt national legislation, after consultations with representative organizations, which may provide for variations in the duration of the night period as defined in the Convention, or exempt specified activities from the prohibition of night work. It prohibits the application of these variations to those women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth.

Convention concerning the revision of the Maternity Protection Convention (Revised), 1952

SHORT TITLE

C 183 Maternity Protection Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide for the circumstances of women workers and to provide protection for pregnancy, which is the shared responsibility of government and society

DATE OF ADOPTION

15 June 2000

PLACE OF ADOPTION

88th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 February 2002

RATIFICATIONS

Eight (as on 24 March 2005)

CONTENTS

21 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

This Convention revises the C103 Convention on Maternity Protection, 1952. The 1952 Convention revised the C003 Convention on Maternity Protection, 1919.

SELECTED ARTICLES

Article 1

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.
2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.
3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

HEALTH PROTECTION

Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not

obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

MATERNITY LEAVE

Article 4

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.
2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.
3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.
4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

BENEFITS

Article 6

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.
2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.
3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.
4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.

Labour

5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.
6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.
7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.
8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:
 - (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
 - (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

Article 7

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.
2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

Article 8

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.
2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Article 9

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 - access to employment.
2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:
 - (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
 - (b) where there is a recognized or significant risk to the health of the woman and child.

BREASTFEEDING MOTHERS**Article 10**

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

KEYWORDS

Employment, maternity leave, maternity protection, benefits, health and safety, hours of work, hours of rest, working conditions, regulations, protection, social security

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention applies to all employed women, including those in atypical forms of work. It provides for measures to protect the health of women workers, and maternity benefits. Since large numbers of women are employed in the fish-processing and packaging industries, the Convention is especially relevant to women fishworkers.

Recommendation concerning the revision of the Maternity Protection Recommendation, 1952

SHORT TITLE

R191 Maternity Protection Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To provide measures that support the Maternity Protection Convention

DATE OF ADOPTION

15 June 2000

PLACE OF ADOPTION

88th session of the International Labour Conference at Geneva, Switzerland

CONTENTS

Seven parts, as follows:

- I. Maternity Leave
- II. Benefits
- III. Financing of Benefits
- IV. Employment protection and non-discrimination
- V. Health Protection
- VI. Breastfeeding mothers
- VII. Related types of leave

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

This Recommendation replaces the earlier Recommendation R 95 Maternity Protection, 1952.

SELECTED ARTICLES

6. (1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.

(2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:

- (a) elimination of risk;
- (b) an adaptation of her conditions of work;
- (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
- (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.

(3) Measures referred to in subparagraph (2) should in particular be taken in respect of:

- (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
- (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
- (c) work requiring special equilibrium;

- (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.
- (4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.
- (5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.
- (6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical

examinations relating to her pregnancy.

KEYWORDS

Maternity protection, women, maternity leave, conditions of work, health and safety, social insurance, regulations

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention recommends extension of maternity leave, if necessary, and benefits, including health benefits, and measures for eliminating risk to pregnant women at the workplace. It is relevant to women, who form a large proportion of the workforce in the fisheries sector, particularly in the fish-processing and packaging industries.

**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:

- Human Rights, Food Security, Women and Development
- Environment and Sustainable Development
- Oceans and Fisheries Management
- Environmental Pollution
- Fishing Vessels and Safety at Sea
- Labour
- Trade

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.

The companion CD-ROM provides the full texts of the instruments in a searchable database. The handbook will be useful for fishworker and non-governmental organizations, and also for researchers and others interested in fisheries issues. It is also available online at www.icsf.net



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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Theme VII
Trade



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

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Relevant to Fisheries and Fishing
Communities:
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Introduction

International trade in fish and fishery products has grown tremendously in the last two decades. This section provides information on instruments relevant to fisheries trade. Some of the agreements relevant to fisheries are: Agreement on the Application of Sanitary and Phytosanitary Measures, Agreement on Technical Barriers to Trade, Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Agreement on Import Licensing Procedures and Agreement on Subsidies and Countervailing Measures. This section also includes decisions on trade and environment that are important for the fishing industry.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973) is the first convention that relates to trade and environment issues. It aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The Convention lists some of the commercially important fish species as endangered species (such as certain species of seahorse and shark) and bans trade in them. Species are listed under three Appendices, according to the degree of protection they require.

The Marrakesh Agreement established the World Trade Organization (WTO) as the outcome of the Uruguay Round negotiations. It formulates a single institutional framework, encompassing all agreements (multilateral and plurilateral agreements), and provides the functions of the WTO. It asks Members to make optimum use of the world's resources in accordance with the objective of sustainable development in a manner consistent with economic development. The agreement covers goods, services and intellectual property as well as dispute settlement. The agreement for the two largest areas—goods and services—shares a common three-part outline, even though the detail is sometimes quite different. They start with the General Agreement on Tariffs and Trade (GATT) for goods, the General Agreement on Trade in Services (GATS) and the Trade-Related Aspects of Intellectual Property Rights (TRIPS). Besides these, there are extra agreements and annexes, ministerial decisions and declarations dealing with the special requirements of specific sectors or issues.

The Ministerial Conference is the highest decision-making authority of the WTO. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements. The day-to-day working of the WTO is handled by three bodies: the General Council, the Dispute Settlement Body and the Trade Policy Review Body. All three consist of all WTO members, and these bodies report to the Ministerial Conference. The Goods Council, Services Council and the TRIPS Council report to the General Council. All Members can participate in all Councils, except Appellate Body, Dispute Settlement Panels, Textile Monitoring Body and plurilateral committees.

Dispute settlement is the central pillar of the multilateral trading system and unique to WTO's structure. The system is based on clearly defined rules, with timetables for completing the case. Settling disputes is the responsibility of the Dispute Settlement Body, which consists of all WTO Members. The Dispute Settlement Body has the sole authority to set up a panel of experts to consider the case, and to accept or reject the panel's findings or results of an appeal. It monitors the implementation of the rulings and recommendations, and has the power to authorize retaliation when a country does not comply with a ruling.

The Ministerial Conferences, held once in two years, play a crucial role in trade negotiations, and provide the agenda for negotiations. The Doha Declaration, adopted at the Doha Ministerial Conference in 2001, calls for clarifications and improving WTO disciplines on fisheries subsidies. The Doha Ministerial Conference also initiated negotiations on the relationship between WTO rules and specific trade obligations under multilateral environmental agreements. The Draft Cancun Declaration, adopted at the Cancun Ministerial Conference in 2003, reaffirmed the commitments from Members towards negotiations.

Convention on International Trade in Endangered Species of Wild Fauna and Flora

SHORT TITLE

1973 Washington Convention

ACRONYM

CITES

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To ensure that international trade in specimens of wild animals and plants does not threaten their survival

DATE OF ADOPTION

3 March 1973

PLACE OF ADOPTION

Washington, D.C., USA

OPENED FOR SIGNATURE

3 March 1973

DATE OF ENTRY INTO FORCE

1 July 1975

RATIFICATIONS

167 (as on 24 March 2005)

CONTENTS

Preamble and 25 articles; 3 appendices

ADDITIONAL INSTRUMENTS

There are two Amendments to the main Convention: Bonn Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Art.XI), was adopted on 22 June 1979, amended Article XI, paragraph 3 a) on financial provisions and entered into force on 13 April 1987 and the Gaborone

Amendments (Art XXI) adopted on 30 April 1983 (not entered into force) amended Article XXI to permit accession by regional economic integration organizations.

INITIATING BODY

IUCN-The World Conservation Union

WORKING OF THE INSTRUMENT

Decision-making body

Conference of the parties

Subsidiary bodies

Standing Committee, Animals Committee, Plants Committee and Nomenclature Committee

Periodicity of meetings

The Conference of Parties meets once every two or three years. (The COP has met 13 times till December 2004.)

Participation in meetings

Voting rights: According to Article XI of the Convention, States which are Party to the Convention have voting rights.

Observers: United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

- (a) international agencies or bodies, either governmental or non-governmental, and national

governmental agencies and bodies; and

- (b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

For participation in the meeting of other subsidiary bodies, please check www.cites.org.

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GUIDELINES

- Guidelines for transport and preparation for shipment of live wild animals and plants
- Guidelines for a procedure to register and monitor operations that breed Appendix-I animal species for commercial purposes
- Guidelines for evaluating marine turtle ranching proposals submitted pursuant to Resolution Conf. 11.16
- Guidelines for the registration of nurseries exporting artificially propagated specimens of Appendix-I species

SELECTED ARTICLES

Article II

Fundamental Principles

1. Appendix I shall include all species threatened with extinction, which are

or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in subparagraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.
4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

KEYWORDS

Trade, endangered species, permits, legislation, species, conservation, regulation, jurisdiction, dispute resolution, convention, reservation, imports, exports, CITES, aquatic species, seahorse, shark

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention explicitly envisages application to marine species, and, as noted by recent FAO Technical Papers, commercial fisheries can pose risks of long-term detrimental impacts to, or extinction of, certain marine species.

Some of the commercially important aquatic species listed in Appendix I are two species of *Acipenser* (sturgeon) and coelocanth, in Appendix II are whale shark and basking shark, other species of *Acipenseriformes*, *Hippocampus* species (seahorse) and in Appendix III are great white shark (Australia) and sea cucumber (*Isostichopus fuscus* (Ecuador)).

The Convention regulates international trade in about 30,000 species. Despite the Convention's name, only a small percentage of these are currently endangered, the majority being species for which trade measures have been introduced to avoid extinction threats. CITES Parties agree to implement international trade controls on species listed in one of the three Appendices, according to the level of threat they face. Many marine species are currently listed.

In practice, CITES is widely used to promote sustainable use of wild species, including fish. Some listed species are traded in high volumes: for instance, the international trade in skins of crocodilians listed on Appendix II is worth around US\$200 mn a year. Heavily traded Appendix I fishery products include sturgeon caviar, queen conch and hard coral.

Potential beneficial synergy exists between fisheries management and CITES listing under certain circumstances. Listing of fish species on

Appendix II can contribute to sustainable fisheries management by:

1. providing support to existing national, bilateral and multilateral fisheries management measures;
2. providing a tool to combat IUU fishing, where this targets fish that primarily enter international trade; and
3. providing a standardized global monitoring system for application of trade-related measures to marine fish.

At the COP 9, a resolution (Conf 9.24) was adopted on "Criteria for amendment of Appendices I and II", which listed the criteria for split-listing of species in Appendices. It stated that the "Listing of a species in more than one Appendix should be avoided in general in view of the enforcement problems it creates. When split-listing does occur, this should generally be on the basis of national or continental populations, rather than subspecies. Split-listings that place some populations of a species in the Appendices, and the rest outside the Appendices, should normally not be permitted." This is of particular importance to fisheries as Article 1 of CITES defines "species" as "any species, subspecies, or geographically separate population thereof". The listing of fish stocks (which are either highly migratory in nature or those that straddle the coastal State's waters and high seas) in different Appendices would be based on this criteria.

At the 12th COP a resolution (Conf 12.6) was passed on "Conservation and management of Sharks". It raised concerns over the lack of implementation of the IPOA-Sharks by States and asked the Animal Committee to review the status of implementation of the IPOA-Sharks by major fishing and trading

nations. Resolution (Conf 12.7) on “Conservation of and trade in sturgeons and paddlefish”, asked Range States to curtail illegal fishing of, and trade in, sturgeon and paddlefish, and adopted guidelines for the universal labelling system for the trade in, and identification of, caviar.

Decision 12.53 on ‘Seahorses and other members of the family Syngnathidae’ encouraged Parties to allow sustainable trade in specimens of *Hippocampus* species, and directed the Animals Committee to identify a minimum size limit for specimens of all *Hippocampus* species.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Appendix II has a few species of shark and seahorse listed. Banning trade in these species has implications for the livelihoods of small-scale fishers in developing countries dependent on these species. The listing of some of the commercially important aquatic species could have impacts on the employment, income and food security of fishworkers in developing countries. Banning trade in turtle, and special protection for the conservation of turtles, for example, has impacts on the livelihoods of fishworkers, as seen in a few countries.

Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations

SHORT TITLE

Final Act

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

By signing the present Final Act, the representatives agree:

- (a) to submit, as appropriate, the WTO Agreement for the consideration of their respective competent authorities with a view to seeking approval of the Agreement in accordance with their procedures; and
- (b) to adopt the Ministerial Declarations and Decisions.

DATE OF SIGNATURE

15 April 1994

PLACE OF SIGNATURE

Marrakesh, Morocco

CONTENTS

6 paragraphs

ADDITIONAL INFORMATION

The “Final Act” signed in Marrakesh in 1994 is like a cover note. Everything else is attached to this. Foremost is the ‘Agreement Establishing the WTO’ (or the WTO Agreement), which serves as an umbrella agreement. Annexed are the agreements on goods, services and intellectual property, dispute settlement, trade policy review mechanism and the plurilateral agreements, as well as a number of Ministerial Decisions and

Declarations. The schedules of commitments also form part of the WTO agreement.

The agreement establishing the WTO calls for a single institutional framework encompassing the GATT, as modified by the Uruguay Round, all agreements and arrangements concluded under its auspices and the complete results of the Uruguay Round. Its structure is headed by a Ministerial Conference, meeting at least once every two years. A General Council oversees the operation of the agreement and ministerial decisions on a regular basis. This General Council acts as a Dispute Settlement Body and a Trade Policy Review Mechanism, which concern themselves with a full range of trade issues covered by the WTO, and has also established subsidiary bodies such as a Goods Council, a Services Council and a TRIPs Council. The WTO framework ensures a “single undertaking approach” to the results of the Uruguay Round—thus, membership in the WTO entails accepting all the results of the Round, without exception.

The Final Act has no date of entry into force as such. It is an agreement signed on 15 April 2004 and refers to the entry into force of the WTO Agreement.

SELECTED PARAGRAPHS

3. The representatives agree on the desirability of acceptance of the WTO Agreement by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as “participants”) with a view to its entry into force by 1 January 1995, or as early as possible thereafter. Not later than late 1994,

Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results, including the timing of their entry into force.

4. The representatives agree that the WTO Agreement shall be open for acceptance as a whole, by signature or otherwise, by all participants

pursuant to Article XIV thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

KEYWORDS

WTO, trade, GATT, ministerial conference, negotiations, Marrakesh

Marrakesh Agreement establishing the World Trade Organization

SHORT TITLE

WTO Agreement

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

International Treaty

OBJECTIVES

The agreement establishing the World Trade Organization (WTO) calls for a single institutional framework encompassing the GATT, as modified by the Uruguay Round, all agreements and arrangements concluded under its auspices and the complete results of the Uruguay Round.

RATIFICATIONS

148 (as of December 2004)

CONTENTS

Preamble plus 16 Articles

ADDITIONAL INFORMATION

The WTO Agreements cover goods, services and intellectual property as well as dispute settlement. The agreements for the two largest areas—goods and services—share a common three-part outline, even though the detail is sometimes quite different.

They start with broad principles: the General Agreement on Tariffs and Trade (GATT) (for goods), and the General Agreement on Trade in Services (GATS). (The third area, Trade-Related Aspects of Intellectual Property Rights (TRIPS), also falls into this category although at present it has no additional parts.) Then come extra agreements and annexes as

well as ministerial decisions and declarations dealing with the special requirements of specific sectors or issues.

Finally, there are the detailed and lengthy schedules (or lists) of commitments made by individual countries allowing specific foreign products or service-providers access to their markets. Underpinning these is dispute settlement, which is based on the agreements and commitments, and trade policy reviews, an exercise in transparency.

INITIATING BODY (INSTRUMENT)

WTO Agreement

WORKING OF THE INSTRUMENT

Decision-making body

Ministerial Conference

The day-to-day work of the Ministerial Conference is looked after by:

General Council, Dispute Settlement Body and Trade Policy Review Body

Subsidiary bodies

- Council for Trade in Goods
- Council for Trade in Services
- Council for Trade-Related Aspects of Intellectual Property Rights
- Committee on Trade and Development
- Committee on Trade and Environment
- Committee on Regional Trade Agreements
- Committee on Balance-of-Payments Restrictions and
- Committee on Budget, Finance and Administration

Periodicity of meetings

The Ministerial Conference meets, in principle, once every two years.

Participation in meetings

Decision-making body:

According to Article IX of the agreement Members, the ministerial conference and general council,

Voting rights: Each Member of the WTO shall have one vote. Where the European Communities exercise its right to vote, it shall have a number of votes equal to the number of their member States, which are Members of the WTO. By consensus except as otherwise provided.

Observers: States not party to the agreement and international organizations

WTO and NGOs

According to Article 5 of the Marrakesh Agreement establishing the WTO, "the general council may take appropriate arrangements for consultation and co-operation with non-governmental organizations concerned with matters related to those of the WTO". Further to this, on 18 July 1996, the council clarified the framework for relationship with NGOs by adopting a set of guidelines, which recognize the role NGOs can play in increasing the awareness of the public in respect of WTO activities. These are important for both the Members and the WTO secretariat in maintaining an informal and positive dialogue with the various components of civil society. Since then, NGOs have focused on attendance at the Ministerial Conferences, and participation in issue-specific symposia. NGOs that can demonstrate that their activities are concerned with the works of the WTO, are now allowed to participate in the plenary session of the Ministerial Conference. During the General Council on 15 July 1998, new initiatives were introduced. Starting from autumn 1998, the WTO secretariat has been providing briefings for NGOs and has established an NGO section on the WTO website, which will provide specific information for civil society. Besides this, a monthly compilation of NGO position papers received is being circulated by the secretariat to Members for information.

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SELECTED ARTICLES

Preamble

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development...

Article III

Functions of the WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.
2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also

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provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "Dispute Settlement Understanding" or "DSU") in Annex 2 to this Agreement.
4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the "TPRM") provided for in Annex 3 to this Agreement.
5. With a view to achieving greater coherence in global economic policymaking, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for

Reconstruction and Development and its affiliated agencies.

KEYWORDS

Agreements, GATT 1947, GATT, WTO, dispute resolution, DSB, ministerial conference, GATS, trade, trade barriers, TRIPS

RELEVANCE TO FISHERIES/ FISHWORKERS

This Agreement establishes a single institutional framework, encompassing all agreements (multilateral and plurilateral agreements). It asks Members to make optimum use of the world's resources in accordance with the objective of sustainable development in a manner consistent with the economic development. It provides the functions of the WTO.

Given that a large proportion of the world's total fish production is traded, negotiations under the WTO, which basically sets the rules for trade, are of great importance to fishworkers.

General Agreement on Tariffs and Trade, 1994

ACRONYM

GATT 1994

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

The General Agreement on Tariffs and Trade 1994 ("GATT 1994") consists of:

- (a) the provisions in the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application), as rectified, amended or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement;
- (b) the provisions of the legal instruments set forth below that have entered into force under the GATT 1947 before the date of entry into force of the WTO Agreement:
 - (i) protocols and certifications relating to tariff concessions;
 - (ii) protocols of accession (excluding the provisions (a) concerning provisional application and withdrawal of provisional application and (b) providing that Part II of GATT 1947 shall be applied provisionally to the fullest extent not inconsistent with

legislation existing on the date of the Protocol);

- (iii) decisions on waivers granted under Article XXV of GATT 1947 and still in force on the date of entry into force of the WTO Agreement;
- (iv) other decisions of the CONTRACTING PARTIES to GATT 1947;
- (c) the Understandings set forth below:
 - (i) Understanding on the Interpretation of Article II:1(b) of the General Agreement on Tariffs and Trade 1994;
 - (ii) Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994;
 - (iii) Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994;
 - (iv) Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994;
 - (v) Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994;
 - (vi) Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994; and
- (d) the Marrakesh Protocol to GATT 1994.

CONTENTS

3 Articles, should be read along with GATT 1947 (38 Articles)

Trade

WORKING OF THE INSTRUMENT

Monitoring and implementation

Council for Trade in Goods (Goods Council) and the various Committees reporting to the Goods Council.

Participation in meetings

Only Members of the WTO are allowed to participate in the working of the council and in the committees.

SELECTED PARAGRAPHS IN GATT 1947

Part I

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

Article II

Schedules of Concessions

1.

(a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the

appropriate Part of the appropriate Schedule annexed to this Agreement.

- (b) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with the importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.
- (c) The products described in Part II of the Schedule relating to any contracting party which are the products of territories entitled under Article I to receive preferential treatment upon importation into the territory to which the Schedule relates shall, on their importation into such territory, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for in Part II of that Schedule. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those

imposed on the date of this Agreement or those directly or mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date. Nothing in this Article shall prevent any contracting party from maintaining its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty.

2. Nothing in this Article shall prevent any contracting party from imposing at any time on the importation of any product:
 - (a) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;
 - (b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI;
 - (c) fees or other charges commensurate with the cost of services rendered.
3. No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.
4. If any contracting party establishes, maintains or authorizes, formally or in effect, a monopoly of the importation of any product described in the appropriate Schedule annexed to this Agreement, such monopoly shall not, except as provided for in that Schedule or as otherwise agreed
 5. If any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to have been contemplated by a concession provided for in the appropriate Schedule annexed to this Agreement, it shall bring the matter directly to the attention of the other contracting party. If the latter agrees that the treatment contemplated was that claimed by the first contracting party, but declares that such treatment cannot be accorded because a court or other proper authority has ruled to the effect that the product involved cannot be classified under the tariff laws of such contracting party so as to permit the treatment contemplated in this Agreement, the two contracting parties, together with any other contracting parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.
 6. (a) The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges

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maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction; provided that the CONTRACTING PARTIES (i.e., the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(b) Similar provisions shall apply to any contracting party not a member of the Fund, as from the date on which such contracting party becomes a member of the Fund or enters into a special exchange agreement in pursuance of Article XV.

7. The Schedules annexed to this Agreement are hereby made an integral part of Part I of this Agreement.

Part II

Article III

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal

sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded

to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.
6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; Provided that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.
7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.
8.
 - (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.
 - (b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.
9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.
10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

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Article XI

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.
2. The provisions of paragraph 1 of this Article shall not extend to the following:
 - (a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;
 - (b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;
 - (c) Import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate:
 - (i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

- (ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or
- (iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Article XIII

Non-discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.
2. In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions and to this end shall observe the following provisions:
 - (a) Wherever practicable, quotas representing the total amount of

- permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3 (b) of this Article;
- (b) In cases in which quotas are not practicable, the restrictions may be applied by means of import licences or permits without a quota;
- (c) Contracting parties shall not, except for purposes of operating quotas allocated in accordance with subparagraph (d) of this paragraph, require that import licences or permits be utilized for the importation of the product concerned from a particular country or source;
- (d) In cases in which a quota is allocated among supplying countries the contracting party applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned shall allot to contracting parties having a substantial interest in supplying the product shares based upon the proportions, supplied by such contracting parties during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any contracting party from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.
- 3.
- (a) In cases in which import licences are issued in connection with import restrictions, the contracting party applying the restrictions shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the import licences granted over a recent period and the distribution of such licences among supplying countries; Provided that there shall be no obligation to supply information as to the names of importing or supplying enterprises.
- (b) In the case of import restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were en route at the time at which public notice was given shall not be excluded from entry; Provided that they may be counted so far as practicable, against the quantity permitted to be imported

in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods; and Provided further that if any contracting party customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this subparagraph.

(c) In the case of quotas allocated among supplying countries, the contracting party applying the restrictions shall promptly inform all other contracting parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with paragraph 2 (d) of this Article or under paragraph 2 (c) of Article XI, the selection of a representative period for any product and the appraisal of any special factors* affecting the trade in the product shall be made initially by the contracting party applying the restriction; Provided that such contracting party shall, upon the request of any other contracting party having a substantial interest in supplying that product or upon the request of the CONTRACTING PARTIES, consult promptly with the other contracting party or the CONTRACTING PARTIES regarding

the need for an adjustment of the proportion determined or of the base period selected, or for the reappraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally relating to the allocation of an adequate quota or its unrestricted utilization.

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any contracting party, and, in so far as applicable, the principles of this Article shall also extend to export restrictions.

Article XVI: Subsidies

Section A - Subsidies in General

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the contracting parties in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the contracting parties, the possibility of limiting the subsidization.

Section B - Additional Provisions on Export Subsidies

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.
3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.
4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.
5. The contracting parties shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importations or exportations of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;

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- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the contracting parties and not disapproved by them or which is itself so submitted and not so disapproved;
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;
- (j) essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The contracting parties shall review the need for this sub-paragraph not later than 30 June 1960.

KEYWORDS

Trade, GATT, developing countries, developed countries, WTO, agreement, exports, imports, tariffs

RELEVANCE TO FISHERIES/ FISHWORKERS

According to Article I on Most-Favoured Nations (MFN), WTO Members are bound to grant to the products of other Members treatment no less favourable than that accorded to the products of any other country. Article III stipulates that once goods have entered a market, they must be treated no less favourably than equivalent domestically produced goods.

Article XI addresses the elimination of quantitative restrictions introduced or maintained by countries on the importation or exportation of products.

Article XX on General Exceptions (paragraphs (b) and (g)) provides options for WTO Members to adopt measures which are required for the protection of human, animal or plant life or health; and also measures relating to the conservation of exhaustible natural resources if measures are made effective in conjunction with restrictions on domestic production or consumption. Some of the cases that have been brought before the Panels and the Appellate Body of the Dispute Settlement, in the application of Article XX, include the shrimp-turtle dispute (conservation of sea turtles), under WTO cases, and under GATT, the tuna-dolphin dispute (conservation of dolphin stocks), and the conservation of salmon and herring (United States-Canada).

Understanding on the interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994

SHORT TITLE

Regional trade agreements

ACRONYM

Article XXIV

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

Aims for a common understanding of the obligations of Members, under Paragraph 12 of Article XXIV

CONTENTS

Preamble and 15 paragraphs

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Regional Trade Agreements (CRTA)

ADDITIONAL INFORMATION

There are 250 regional trade agreements (RTAs), which have been notified to the WTO; of these, 170 are in force. WTO Members, meeting at the Fourth Ministerial Conference in Doha, while recognizing that RTAs can play an important role in promoting trade liberalization and in fostering economic development, also stressed the need for a harmonious relationship between the multilateral and regional processes. On this basis, Ministers agreed to launch negotiations aimed at clarifying and improving the disciplines and procedures

under the existing WTO provisions applying to RTAs, while taking due account of the developmental aspects of these agreements.

The Committee on Regional Trade Agreements (CRTA) has two principal duties: to examine individual regional agreements; and to consider the systemic implications of the agreements for the multilateral trading system and the relationship between them.

SELECTED PARAGRAPHS

1. Customs unions, free-trade areas, and interim agreements leading to the formation of a customs union or free-trade area, to be consistent with Article XXIV, must satisfy, *inter alia*, the provisions of paragraphs 5, 6, 7 and 8 of that Article.

Article XXIV:5

2. The evaluation under paragraph 5(a) of Article XXIV of the general incidence of the duties and other regulations of commerce applicable before and after the formation of a customs union shall in respect of duties and charges be based upon an overall assessment of weighted average tariff rates and of customs duties collected. This assessment shall be based on import statistics for a previous representative period to be supplied by the customs union, on a tariff-line basis and in values and quantities, broken down by WTO country of origin. The Secretariat shall compute the weighted average tariff rates and customs duties

Trade

collected in accordance with the methodology used in the assessment of tariff offers in the Uruguay Round of Multilateral Trade Negotiations. For this purpose, the duties and charges to be taken into consideration shall be the applied rates of duty. It is recognized that for the purpose of the overall assessment of the incidence of other regulations of commerce for which quantification and aggregation are difficult, the examination of individual measures, regulations, products covered and trade flows affected may be required.

Article XXIV:6

4. Paragraph 6 of Article XXIV establishes the procedure to be followed when a Member forming a customs union proposes to increase a bound rate of duty. In this regard Members reaffirm that the procedure set forth in Article XXVIII, as elaborated in the guidelines adopted on 10 November 1980 (BISD 27S/26-28) and in the Understanding on the Interpretation of Article XXVIII of GATT 1994, must be commenced before tariff concessions are modified or withdrawn upon the formation of a customs union or an interim

agreement leading to the formation of a customs union.

KEYWORDS

GATT 1994, customs union, free trade areas, tariffs, RTA, trade agreements

RELEVANCE TO FISHERIES/ FISHWORKERS

Article XXIV states that, if a free trade area or customs union is created, duties and other trade barriers should be reduced or removed substantially on all sectors of trade in the group. It also states that non-members should not find trade with the group any more restrictive than before the group was set up. Paragraphs 4 to 10 provide for the formation and operation of customs unions and free-trade areas covering trade in goods.

Similarly, Article 5 of GATS provides for economic integration agreements in services. Other provisions in the WTO Agreements allow developing countries to enter into regional or global agreements that include the reduction or elimination of tariffs and non-tariff barriers on trade among themselves.

Some of the RTAs that have fish products as one of the components of trade, are ECOWAS, WAEMU, Mercosur, COMESA, AFTA and SADC.

Agreement on the Application of Sanitary and Phytosanitary Measures

SHORT TITLE

Sanitary and Phytosanitary Measures

scientific evidence, except as provided for in paragraph 7 of Article 5.

ACRONYM

SPS

3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

Aims to provide for basic rules for food safety, and animal and plant health standards

4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

CONTENTS

14 Articles and three Annexes

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Sanitary and Phytosanitary Measures

SELECTED ARTICLES

Article 2

Basic Rights and Obligations

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.
2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient

Article 3

Harmonization

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.
2. Sanitary or phytosanitary measures which conform to international standards, guidelines or

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recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

Article 4

Equivalence

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.
2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

ANNEX A

DEFINITIONS

1. Sanitary or phytosanitary measure - Any measure applied:
 - (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
 - (b) to protect human or animal life or health within the territory of the Member from risks arising from

additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;

- (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
- (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

KEYWORDS

GATT 1994, SPS, guidelines, quality control, human health, standards

RELEVANCE TO FISHERIES/ FISHWORKERS

According to this Agreement, Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of the Agreement.

An annex to the Sanitary and Phytosanitary Measures Agreement names the FAO/WHO Codex Alimentarius Commission (CAC) for food, and the International Animal Health Organization (Office International des Epizootics—OIE) for animal health. In the definitions listed in the Annex, “animal” includes fish.

The basic important provisions under the SPS Agreement that are relevant for trade in fish and fish products are: the harmonization principle, equivalence principle and scientific evidence.

One example of a dispute involving fish products is the case brought by the United States against Australia for measures applied on imported salmonids.

Agreement on Technical Barriers to Trade

SHORT TITLE

Technical Barriers to Trade

ACRONYM

TBT

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

To encourage the development of international standards and conformity assessment systems

To ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade and to protect human safety or health, protect animal and plant life or health, protect environment and prevent deceptive practices

CONTENTS

15 articles and two annexes

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Technical Barriers to Trade

ADDITIONAL INFORMATION

The Agreement seeks to ensure that technical negotiations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade. However, it recognizes that countries have the right to adopt the standards they consider appropriate, for example, for human,

animal or plant life or health, for the protection of the environment, or to meet other consumer interests. Members are not prevented from taking measures necessary to ensure their standards are met. The Agreement, therefore, encourages countries to use international standards where these are appropriate, but it does not require them to change their levels of protection as a result of standardization.

Innovative features of the revised agreement are that it covers processing and production methods related to the characteristics of the product itself. The coverage of conformity assessment procedures is enlarged and the disciplines made more precise. A Code of Good Practice for the Preparation, Adoption and Application of Standards by standardizing bodies, which is open to acceptance by private-sector bodies as well as the public sector, is included as an annex to the agreement.

The Committee reviews annually the implementation and operation of the Agreement, taking into account its objectives, and at the end of each three-year period, the operation and implementation of the Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of the Agreement, where necessary.

SELECTED ARTICLES

Article 1

General Provisions

1.1 General terms for standardization and procedures for assessment of conformity shall normally have the

meaning given to them by definitions adopted within the United Nations system and by international standardizing bodies taking into account their context and in the light of the object and purpose of this Agreement.

- 1.2 However, for the purposes of this Agreement the meaning of the terms given in Annex 1 applies.
- 1.3 All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement.
- 1.4 Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.
- 1.5 The provisions of this Agreement do not apply to sanitary and phytosanitary measures as defined in Annex A of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 1.6 All references in this Agreement to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

Article 2

Preparation, Adoption and Application of Technical Regulations by Central Government Bodies

- 2.1 Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be accorded treatment no less favourable than that accorded to like products of national

origin and to like products originating in any other country.

- 2.2 Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, *inter alia*: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration are, *inter alia*: available scientific and technical information, related processing technology or intended end-uses of products.

KEYWORDS

GATT 1994, TBT, standards, technical regulations, developing countries

RELEVANCE TO FISHERIES

The Technical Barriers to Trade Agreement covers all technical regulations, voluntary standards and the procedures to ensure that these are met, except when these are sanitary or phytosanitary measures as defined by the SPS Agreement. The principles of the TBT agreement are harmonization, avoidance of unnecessary obstacles to trade, non-discrimination and national treatment, equivalence of technical regulations, mutual recognition of conformity assessment procedures and transparency.

The Agreement sets out a code of good practice for the preparation, adoption and application of standards by central

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government bodies. It also includes provisions describing how local government and non-governmental bodies should apply their own regulations—normally they should use the same principles that apply to central governments.

Technical regulations and standards applied to fish products, such as labelling disputes or testing procedures, at times lead to distortions or obstacles to trade.

The TBT Agreement sets the rules for procedures and requirements for these standards. One of the recent disputes on labelling was the disagreement between Peru and the European Community regarding the exports of a species of sardine, which was different from that found in European waters, under the sardine label. Using the Codex Alimentarius as an internationally agreed reference standard, this case was resolved.

Agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994

SHORT TITLE

Anti-dumping

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

To make provisions that govern the application of Article VI of GATT 1994 in so far as action is taken under anti-dumping legislation or regulations

To provide detailed rules in relation to the method of determining that a product is dumped, the criteria to be taken into account in a determination that dumped imports cause injury to a domestic industry, the procedures to be followed in initiating and conducting anti-dumping investigations, and the implementation and duration of anti-dumping measures

CONTENTS

18 Articles and two Annexes

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Anti-Dumping Practices

Periodicity of meetings

Committee on Anti-Dumping Practices meets not fewer than twice a year.

Participation in meetings

Members of WTO can participate in the meetings of Committee on Anti-Dumping Practices.

ADDITIONAL INFORMATION

Article VI of GATT provides for the right of Members to apply anti-dumping measures, i.e. measures against imports of a product at an export price below its "normal value" (usually the price of the product in the domestic market of the exporting country) if such dumped imports cause injury to a domestic industry in the territory of the importing contracting party. More detailed rules governing the application of such measures were provided in an Anti-dumping Agreement concluded at the end of the Tokyo Round. Negotiations in the Uruguay Round resulted in a revision of this Agreement, which addresses many areas in which the Tokyo Round Agreement lacked precision and detail.

SELECTED ARTICLES

Article 2

Determination of Dumping

- 2.1 For the purpose of this Agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.
- 2.3 When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the

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domestic market of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

- 2.6 Throughout this Agreement the term “like product” (“produit similaire”) shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Article 3

Determination of Injury

- 3.1 A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

Article 5

Initiation and Subsequent Investigation

- 5.8 An application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient

evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 per cent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member.

Article 9

Imposition and Collection of Anti-Dumping Duties

- 9.1 The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled, and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing Member. It is desirable that the imposition be permissive in the territory of all Members, and that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.

Article 15**Developing Country Members**

It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.

KEYWORDS

GATT 1994, anti-dumping, dumping, like product, country of origin, domestic industry, injury, *de minimis*, developing country

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Agreement provides three methods to calculate a product's normal value. It provides for greater clarity and more detailed rules in relation to the method of

determining that a product is dumped, the criteria to be taken into account in a determination that dumped imports cause injury to a domestic industry, the procedures to be followed in initiating and conducting anti-dumping investigations, and the implementation and duration of anti-dumping measures. In addition, it clarifies the role of dispute settlement panels in disputes relating to anti-dumping actions taken by domestic authorities.

Article 1 of the Agreement defines the basic principle for imposing the anti-dumping measures. Article 2 provides the rules for the determination of dumping, while Article 3 contains rules regarding the determination of material injury caused by dumped imports. Article 5 defines margin of dumping (*de minimis*).

One of the few cases in fisheries to which this agreement has been applied is the Norwegian Atlantic salmon imports into the United States in 1994.

Agreement on Import Licensing Procedures

SHORT TITLE

Import Licensing

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

To ensure that import licensing, particularly non-automatic import licensing, be implemented in a transparent and predictable manner

CONTENTS

Eight articles

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Import Licensing

SELECTED ARTICLES

Article 1

General Provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member.
2. Members shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, as

interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.

3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.

Article 2

Automatic Import Licensing

1. Automatic import licensing is defined as import licensing where approval of the application is granted in all cases, and which is in accordance with the requirements of paragraph 2(a).
2. The following provisions, in addition to those in paragraphs 1 through 11 of Article 1 and paragraph 1 of this Article, shall apply to automatic import licensing procedures:
 - (a) automatic licensing procedures shall not be administered in such a manner as to have restricting effects on imports subject to automatic licensing. Automatic licensing procedures shall be deemed to have trade-restricting effects unless, *inter alia*:
 - (i) any person, firm or institution which fulfils the legal requirements of the importing Member for engaging in import operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licences;
 - (ii) applications for licences may be submitted on any working day

prior to the customs clearance of the goods;
 (iii) applications for licences when submitted in appropriate and complete form are approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days;

3. In the case of licensing requirements for purposes other than the implementation of quantitative restrictions, Members shall publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences.

Article 3

Non-Automatic Import Licensing

1. The following provisions, in addition to those in paragraphs 1 through 11 of Article 1, shall apply to non-automatic import licensing procedures. Non-automatic import licensing procedures are defined as import licensing not falling within the definition contained in paragraph 1 of Article 2.
2. Non-automatic licensing shall not have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of the restriction. Non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.

KEYWORDS

GATT 1994, imports, licence, licensing

RELEVANCE TO FISHERIES/ FISHWORKERS

The Agreement strengthens the disciplines on the users of import licensing systems and increases transparency and predictability. It requires parties to publish sufficient information for traders to know the basis on which licences are granted. It contains strengthened rules for the notification of the institution of import licensing procedures or changes therein. It also offers guidance on the assessment of applications. The Agreement sets criteria for automatic licensing so that the procedures used do not restrict trade.

Import licences and import quotas for fish and fishery products are still widely used by a majority of developing countries. Japan and the European Commission use them for some products.

Agreement on Subsidies and Countervailing Measures

SHORT TITLE

Subsidies and Countervailing Measures

ACRONYM

SCM

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

To define the different kinds of subsidies and the use of countervailing measures on subsidized imported goods

CONTENTS

32 articles and seven annexes

WORKING OF THE INSTRUMENT

Monitoring and implementation

Committee on Subsidies and Countervailing Measures

Subsidiary bodies

Permanent Group of Experts composed of five independent persons, highly qualified in the fields of subsidies and trade relations.

Periodicity of meetings

The Committee on Subsidies and Countervailing Measures meets at least twice a year.

ADDITIONAL INFORMATION

The Agreement on Subsidies and Countervailing Measures builds on the Agreement on Interpretation and Application of Articles VI, XVI and XXIII, which was negotiated in the Tokyo Round.

SELECTED ARTICLES

Article 1

Definition of a Subsidy

1.1 For the purpose of this Agreement, a subsidy shall be deemed to exist if:

(a)(1) there is a financial contribution by a government or any public body within the territory of a Member (referred to in this Agreement as “government”), i.e. where:

(i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);

(ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits) ;

(iii) a government provides goods or services other than general infrastructure, or purchases goods;

(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments; or

(a)(2) there is any form of income or price support in the sense of Article XVI of GATT 1994; and

(b) a benefit is thereby conferred.

1.2 A subsidy as defined in paragraph 1

shall be subject to the provisions of Part II or shall be subject to the provisions of Part III or V only if such a subsidy is specific in accordance with the provisions of Article 2.

Article 3

Prohibition

3.1 Except as provided in the Agreement on Agriculture, the following subsidies, within the meaning of Article 1, shall be prohibited:

- (a) subsidies contingent, in law or in fact 4 , whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I 5 ;
- (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

3.2 A Member shall neither grant nor maintain subsidies referred to in paragraph 1.

Article 5

Adverse Effects

No Member should cause, through the use of any subsidy referred to in paragraphs 1 and 2 of Article 1, adverse effects to the interests of other Members, i.e.:

- (a) injury to the domestic industry of another Member ;
- (b) nullification or impairment of benefits accruing directly or indirectly to other Members under GATT 1994 in particular the benefits of concessions bound under Article II of GATT 1994 ;
- (c) serious prejudice to the interests of another Member.

This Article does not apply to subsidies maintained on agricultural products as provided in Article 13 of the Agreement on Agriculture.

Article 6

Serious Prejudice

6.3 Serious prejudice in the sense of paragraph (c) of Article 5 may arise in any case where one or several of the following apply:

- (a) the effect of the subsidy is to displace or impede the imports of a like product of another Member into the market of the subsidizing Member;
- (b) the effect of the subsidy is to displace or impede the exports of a like product of another Member from a third country market;
- (c) the effect of the subsidy is a significant price undercutting by the subsidized product as compared with the price of a like product of another Member in the same market or significant price suppression, price depression or lost sales in the same market;
- (d) the effect of the subsidy is an increase in the world market share of the subsidizing Member in a particular subsidized primary product or commodity as compared to the average share it had during the previous period of three years and this increase follows a consistent trend over a period when subsidies have been granted.

Article 16

Definition of Domestic Industry

16.1 For the purposes of this Agreement, the term "domestic industry" shall, except as provided in paragraph 2, be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major

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proportion of the total domestic production of those products, except that when producers are related to the exporters or importers or are themselves importers of the allegedly subsidized product or a like product from other countries, the term “domestic industry” may be interpreted as referring to the rest of the producers.

Article 19

Imposition and Collection of Countervailing Duties

19.1 If, after reasonable efforts have been made to complete consultations, a Member makes a final determination of the existence and amount of the subsidy and that, through the effects of the subsidy, the subsidized imports are causing injury, it may impose a countervailing duty in accordance with the provisions of this Article unless the subsidy or subsidies are withdrawn.

Article 27

Special and Differential Treatment of Developing Country Members

27.1 Members recognize that subsidies may play an important role in economic development programmes of developing country Members.

27.2 The prohibition of paragraph 1(a) of Article 3 shall not apply to:

- (a) developing country Members referred to in Annex VII.
- (b) other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in paragraph 4.

27.3 The prohibition of paragraph 1(b) of Article 3 shall not apply to developing

country Members for a period of five years, and shall not apply to least developed country Members for a period of eight years, from the date of entry into force of the WTO Agreement.

KEYWORDS

GATT 1994, subsidies, countervailing measures, SCM

RELEVANCE TO FISHERIES/ FISHWORKERS

The Agreement contains a definition of subsidy and introduces the concept of a “specific” subsidy—for the most part, a subsidy available only to an enterprise or industry or group of enterprises or industries within the jurisdiction of the authority granting the subsidy. Only specific subsidies would be subject to the disciplines set out in the agreement. The Agreement establishes three categories of subsidies: prohibited, actionable and non-actionable. The rules with respect to non-actionable subsidies were terminated on 31 December 1999. One part of the Agreement concerns the use of countervailing measures on subsidized imported goods. It sets out disciplines on the initiation of countervailing cases, investigations by national authorities and rules of evidence to ensure that all interested parties can present information and arguments.

For the first time in multilateral trade negotiations, the theme of “fisheries subsidies” appears in the Doha Declaration, which asks to “clarify and improve WTO disciplines on fisheries subsidies”. Several countries have submitted their proposals on fisheries subsidies to the Negotiating Group on Rules; the results of the negotiations are to be adopted at a future Ministerial Conference.

General Agreement on Trade in Services

CRONYM

GATS

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Agreement

OBJECTIVES

To establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries

To facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, through the strengthening of their domestic services capacity and its efficiency and competitiveness

DATE OF ADOPTION

15 April 1994

PLACE OF ADOPTION

Marrakesh, Morocco

CONTENTS

28 articles in six parts. Article 29 "Annexes" has 8 Annexes.

ADDITIONAL INSTRUMENTS

- Annex on Article II Exemptions
- Annex on Movement of Natural Persons Supplying Services under the Agreement

- Annex on Air Transport Services
- Annex on Financial Services
- Second Annex on Financial Services
- Annex on Negotiations on Maritime Transport Services
- Annex on Telecommunications
- Annex on Negotiations on Basic Telecommunications

WORKING OF THE INSTRUMENT

Monitoring and implementation

Council for Trade in Services

Committee on Specific Commitments

Working Party on Domestic Regulations

Working Party on GATS Rules

ADDITIONAL INFORMATION

GATS has three components to it—first, a framework agreement containing basic obligations, which apply to all member countries; second, the national schedules of commitments, containing specific further national commitments which will be the subject of a continuing process of liberalization; and third, a number of annexes addressing the special situations of individual services sectors.

SELECTED ARTICLES

Article II

Most-Favoured-Nation Treatment

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.

Trade

2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.
 3. The provisions of this Agreement shall not be so construed as to prevent any Member from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.
- inconsistent with the provisions of this Agreement including those relating to:
- (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

Article V bis

Labour Markets Integration Agreements
This Agreement shall not prevent any of its Members from being a party to an agreement establishing full integration of the labour markets between or among the parties to such an agreement, provided that such an agreement:

- (a) exempts citizens of parties to the agreement from requirements concerning residency and work permits;
- (b) is notified to the Council for Trade in Services.

Article XIV

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures:

- (a) necessary to protect public morals or to maintain public order;
- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to secure compliance with laws or regulations which are not

Article XV

Subsidies

1. Members recognize that, in certain circumstances, subsidies may have distortive effects on trade in services. Members shall enter into negotiations with a view to developing the necessary multilateral disciplines to avoid such trade-distortive effects. The negotiations shall also address the appropriateness of countervailing procedures. Such negotiations shall recognize the role of subsidies in relation to the development programmes of developing countries and take into account the needs of Members, particularly developing country Members, for flexibility in this area. For the purpose of such negotiations, Members shall exchange information concerning all subsidies related to trade in services that they provide to their domestic service suppliers.
2. Any Member which considers that it is adversely affected by a subsidy of another Member may request consultations with that Member on such matters. Such requests shall be accorded sympathetic consideration.

Article XVI**Market Access**

1. With respect to market access through the modes of supply identified in Article I, each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.

Annex on Movement of Natural Persons Supplying Services under the Agreement

1. This Annex applies to measures affecting natural persons who are service suppliers of a Member, and natural persons of a Member who are employed by a service supplier of a Member, in respect of the supply of a service.
2. The Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
3. In accordance with Parts III and IV of the Agreement, Members may negotiate specific commitments applying to the movement of all categories of natural persons supplying services under the Agreement. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.
4. The Agreement shall not prevent a Member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of,

and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Member under the terms of a specific commitment.

KEYWORDS

GATT 1994, GATS, services

**RELEVANCE TO FISHERIES/
FISHWORKERS**

Part I of the Agreement defines its scope, while Part II sets out general obligations and disciplines (most favoured nation), and Part III contains provisions on market access and national treatment, which are not general obligations but are commitments made in national schedules. Part IV establishes the basis for progressive liberalization in the services area through successive rounds of negotiations and the development of national schedules. Part V provides for consultation, dispute settlement and enforcement, and formation of the Council for Trade in Services.

The first of the Annexes to the Agreement concerns the movement of labour. It permits parties to negotiate specific commitments applying to the movement of people providing services under the Agreement. It requires that people covered by a specific commitment shall be allowed to provide the service in accordance with the terms of the commitment. Nevertheless, the Agreement would not apply to measures affecting employment, citizenship or residence on a permanent basis. This section could be of interest to the fishing sector since several industrialized countries have room in their depopulated fisheries to accommodate fishworkers from developing countries.

Decision on Trade and Environment

ACRONYM

DTE

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Decision

OBJECTIVES

To co-ordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies, which may result in significant trade effects for its members

DATE OF ADOPTION

15 April 1994

PLACE OF ADOPTION

Marrakesh, Morocco

CONTENTS

14 paragraphs (including preamble)

WORKING OF THE INSTRUMENT

Decision-making body

General Council

Monitoring and implementation

Committee on Trade and Environment (CTE)

Participation in meetings

Committee on Trade and Environment (CTE) is open to all members of WTO.

Observers: Intergovernmental Organizations

ADDITIONAL INFORMATION

The DTE was adopted by the trade negotiations committee. The other relevant WTO agreements that relate to environment are: Preamble to WTO Agreement. GATT Article XX, TBT, SPS, Agriculture, Subsidies, and TRIPS, GATS Article 14 and the Decision on Trade in Services and the Environment.

The CTE took over from the GATT group on Environmental Measures and International Trade (GATT EMIT) group. Its mandate is:

- to identify the relationship between trade measures and environmental measures in order to promote sustainable development; and
- to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system.

SELECTED PARAGRAPHS

7.

- (a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;
- (b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular
 - the need for rules to enhance positive interaction between trade and environmental

measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and

- the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and
- surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures;”

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

8. -that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:

-the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;

-the relationship between environmental policies relevant to trade and environmental measures with significant trade

effects and the provisions of the multilateral trading system;

-the relationship between the provisions of the multilateral trading system and:

- (a) charges and taxes for environmental purposes;
- (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;

- the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;

- the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;

-the issue of exports of domestically prohibited goods,

KEYWORDS

GATT 1994, committee, trade, environment, CTE

RELEVANCE TO FISHERIES/ FISHWORKERS

This decision of the General Council of the WTO established the Committee on Trade and Environment (CTE) to co-ordinate the policies in the field of trade and environment, without exceeding the competence of the multilateral trading system (limited to trade policies) and those trade-related aspects of environmental policies, which may result in significant trade effects for its Members.

Trade

It directed the establishment of the CTE to ensure that there is no policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system, on the one hand, and acting for the protection of the environment, and the promotion of sustainable development, on the other.

At the Fourth Ministerial Conference in Doha, Ministers instructed the CTE, in pursuing work on all items of its work programme, to focus particularly on three issues: the effects of environmental measures on market access, the relevant

provisions of the TRIPS Agreement, and labelling requirements for environmental purposes. The Doha Round also initiated the negotiations on the relationship between WTO rules and specific trade obligations under multilateral environmental agreements.

Some of the disputes relating to trade and environment are the United States shrimp-turtle dispute; United States–Canada tuna dispute; Canada salmon and herring dispute; United States–Mexico tuna dispute, and the United States–European Community tuna dispute, under GATT.

Preferential tariff treatment for Least-developed countries: Decision on waiver

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Decision

OBJECTIVES

To provide an additional means for developing country Members to offer preferential tariff treatment to products of least developed countries

DATE OF ADOPTION

15 June 1999

CONTENTS

Preamble and six paragraphs

SELECTED PARAGRAPHS

1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least-developed countries, designated as such by the United Nations, without being required to extend the same tariff rates to like products of any other Member.

3. Any preferential tariff treatment implemented pursuant to this Waiver shall be designed to facilitate and promote the trade of least-developed countries and not to raise barriers or create undue difficulties for the trade of any other Member. Such preferential tariff treatment shall not constitute an impediment to the reduction or elimination of tariffs on a most-favoured-nation basis.

KEYWORDS

GATT 1994, waiver, tariff, developing countries, market access, LDC

RELEVANCE TO FISHERIES/ FISHWORKERS

The decision allows developing country Members to provide preferential tariff treatment to products of least developed countries, designated by the United Nations. The European Union-Africa, Caribbean and Pacific (EU-ACP) partnership agreement requires preferential tariff treatment by the European Community for export of products (including fish products) originating in the ACP States.

Doha Ministerial Declaration

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To undertake a broad and balanced work programme. The work programme incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system

CONTENTS

52 paragraphs

NAME OF DECLARATION

Doha Ministerial Declaration

PLACE OF DECLARATION

Fourth Session of the WTO Ministerial Conference, Doha, Qatar

DATE OF DECLARATION

14 November 2001

WORKING OF THE INSTRUMENT

Monitoring and implementation

Trade Negotiations Committee and its various negotiating bodies.

Periodicity

Ministerial meeting is held once every two years.

SELECTED PARAGRAPHS

Market Access for Non-Agricultural Products

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or

elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade-distorting practices, that they seek to clarify and improve in the subsequent

phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

Trade and Environment

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- (iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also

Trade

encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

KEYWORDS

Multilateral trading system, trade, developing countries, environment, labour standards, tariffs, investment, fishery subsidies, dispute resolution, environmental labelling, development, WTO, subsidies, TRIPS, MEA, CTE

RELEVANCE TO FISHERIES/ FISHWORKERS

For the first time in multilateral trade negotiations, the theme of “fisheries subsidies” appears in the Doha Declaration, which asks to “clarify and improve WTO disciplines on fisheries subsidies”.

Also, under Market Access for Non-agricultural Products—the category under which fish trade falls—the Doha Declaration calls for agreement on modalities to reduce or eliminate tariffs,

particularly on products of export interest to developing countries. Such negotiations can potentially contribute to employment benefits, especially to women, in several developing countries that export processed fish products to, for example, the US and the EC.

A third area of relevance to fisheries is the negotiations on the relationship between WTO rules and specific trade obligations under multilateral environmental agreements (MEAs).

Other areas relevant to fisheries include the reference to the WTO Committee on Trade and Environment to continue its work on the effects of environmental measures on market access as well as labelling requirements for environmental purposes.

The reference to the ongoing negotiations on trade in services, especially on “movement of natural persons”, could also be of some interest to the fisheries sector, particularly to fishermen from developing countries seeking employment in labour-scarce fisheries of the industrialized countries.

Draft Cancun Ministerial Declaration

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Conference Declaration

OBJECTIVES

To take stock of progress in negotiations and other work under the Doha Development Agenda

CONTENTS

Draft Ministerial Declaration

1. Annex A: Framework for Establishing Modalities in Agriculture
2. Annex B: Framework for Establishing Modalities in Market Access for Non-Agricultural Products
3. Annex C: Special and Differential Treatment
4. Annex D: Transparency in Government Procurement
5. Annex E: Trade Facilitation

PLACE OF DRAFT DECLARATION

Cancún, Mexico

DATE OF DRAFT DECLARATION

13 September 2003 (2nd revision)

ADDITIONAL INFORMATION

The General Council adopted a decision on the Doha Agenda Work Programme (called the “July Package”) on 1 August 2004, which contains frameworks and other agreements, to help focus the negotiations. The Annex B of the Decision on the “Framework for Establishing Modalities in Market Access for Non-Agricultural Products” contains the initial elements for the negotiations on market access. The negotiations aim to reduce or, as appropriate, eliminate tariffs,

including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. The “July Package” recognized the formula approach as the key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs and tariff escalation. One of the products, listed under these negotiations includes fish and fish products.

SELECTED PARAGRAPHS

NAMA negotiations

5. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We take note of the progress made by the Negotiating Group on Market Access in this regard and agree to intensify work to translate the Doha objectives into modalities for these negotiations. To this end, we adopt the framework for modalities for negotiations on non-agricultural products set out in Annex B to this document. We direct the Negotiating Group to conclude its work on establishing modalities by [...] and to take the necessary further steps to ensure the conclusion of negotiations by the agreed date.

Rules negotiations

7. We instruct the Negotiating Group on Rules to accelerate its work on anti-dumping and subsidies and countervailing measures, including fisheries subsidies, with a view to shifting its emphasis from identifying issues to seeking solutions. We note the progress that has been made in

Trade

the negotiations on improving transparency in Regional Trade Agreements and encourage the Group to reach a provisional decision soon on its work on transparency and to accelerate its work on the clarification and improvement of RTA disciplines under existing WTO provisions, taking into account the developmental aspects of RTAs.

Environment negotiations

9. We take note of the progress made by the Special Session of the Committee on Trade and Environment in developing a common understanding of the concepts contained in its mandate in paragraph 31 of the Doha Ministerial Declaration. We reaffirm our commitment to these negotiations.
10. We agree that the Committee on Trade and Environment Special Session continue to invite to its meetings, in accordance with its current practice, the secretariats of the multilateral environmental agreements (MEAs) invited thus far and of the United Nations Environment Programme (UNEP) and the United Nations Conference

on Trade and Development (UNCTAD). This invitation shall be for the duration of the negotiations. It shall be without prejudice to any additional invitations that the Committee on Trade and Environment Special Session extends in future, and to paragraph 31 negotiations.

KEYWORDS

Fish products, tariff, MEA, market access, trade negotiations, fisheries subsidies, NAMA, RTA

RELEVANCE TO FISHERIES/ FISHWORKERS

The Declaration reaffirmed the commitments from Members towards negotiations, and Members called upon the Negotiating Group on Rules to find solutions on anti-dumping and countervailing measures, including fisheries subsidies. It also adopted the framework for modalities for negotiations on non-agricultural products (which includes fish and fish products). The declaration reaffirmed the commitments made by the Members at the Doha Ministerial Conference.

**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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- Fishing Vessels and Safety at Sea
- Labour
- Trade

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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