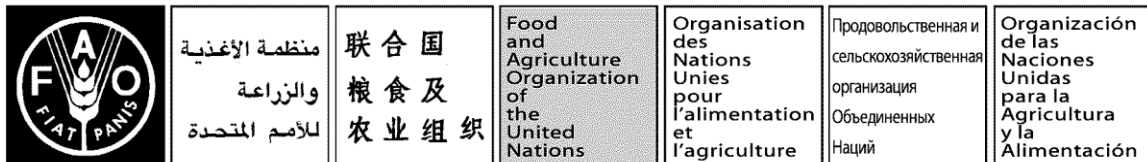


February 2012

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**WESTERN CENTRAL ATLANTIC FISHERY COMMISSION (WECAFC)**

**FOURTEENTH SESSION**

**Panama City, Panama, 6-9 February 2012**

**Support to the implementation of international fisheries instruments**

### Executive Summary

The international community has invested considerable time and effort in developing international fisheries instruments, both binding and voluntary, to achieve the objective of deterring illegal, unreported and unregulated (IUU) fishing and ensuring the long-term conservation and sustainable use of living marine resources and marine ecosystems. The instruments are all based on the 1982 United Nations Convention on the Law of the Sea and share many synergies among themselves.

The fundamental imperative for countries to implement these instruments at national, sub-regional and regional levels in the Wider Caribbean Region is recognized not only by the agreed mandates of WECAFC and other regional organizations, but by the development of ongoing projects and activities as well as declarations such as the 2010 Declaration Castries (St. Lucia) Declaration on IUU fishing which expressed the desire “of achieving more effective implementation of various international instruments for sustainable fisheries development adopted or enacted in the past decades” and called upon countries to implement the instruments.

The objective of this document is to provide a focus for members on the current priorities of the international community in relation to broad-based fisheries management, as reflected in international fisheries instruments, and thereby to inform members on potential priorities for fulfilling the objectives, principles and mandate of WECAFC. For those Members that have not yet become party to the instruments or implemented their provisions, this document provides information and reasons, in the WECAFC context, why they should consider doing so.

Of the six international fisheries instruments addressed in this document, three are legally binding, one consists of Technical Guidelines for implementation and two are in the form of agreed International Guidelines. They are the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement, the 2009 FAO Port State Measures Agreement, the 2003 FAO Technical Guidelines on the ecosystem approach to fisheries (EAF), the 2008 FAO International Guidelines

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for the Management of Deep-sea Fisheries in the High Seas and the 2010 FAO International Guidelines on Bycatch Management and Reduction of Discards.

This document introduces in Part 1 the functions and responsibilities of WECAFC and relevant outcomes of its most recent Sessions and meetings, as well as the six international fisheries instruments. In Part 2, the framework for each instrument is described as well as its relevance to the WECAFC region, key activities in the region to implement the instrument and potential priorities for implementation

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## ACRONYMS

BRD	bycatch reduction device
CARICOM/CRFM	Caribbean Community and Common Market/Caribbean Regional Fisheries Mechanism (CARICOM/CRFM)
CERMES	Centre for Resource Management and Environmental Studies
CLME	Caribbean Large Marine Ecosystem
Code of Conduct	1995 FAO Code of Conduct for Responsible Fisheries
COFI	FAO Committee on Fisheries
1982 Convention	1982 United Nations Convention on the Law of the Sea
CPPS	Comision Permanente del Pacifico Sur
CRFM	Caribbean Regional Fisheries Mechanism
EAA	ecosystem approach to aquaculture
EAF	ecosystem approach to fisheries
HSVAR	FAO High Seas Vessels Authorization Record database
ICCAT	International Commission for the Conservation of Atlantic Tuna
ICP	UN Informal Consultative Process on Ocean Affairs and the Law of the Sea
IPOA-Seabirds	1999 FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries
IPOA-Sharks	1999 FAO International Plan of Action for the Conservation and Management of Sharks
IMO	International Maritime Organization
IUU	Illegal, Unreported and Unregulated
IWC	International Whaling Commission
LAPE	Lesser Antilles Pelagic Ecosystem project
MCS	monitoring, control and surveillance
nei	not elsewhere identified
OECS/ESDU	Organization of Eastern Caribbean States /Environment and Sustainable Development Unit
OSPESCA/SICA	Organization for the Fishing and Aquaculture Sector of the Central American Isthmus/Central American Integration System
RFMO/As	regional fisheries management organization or arrangement
SAG	Scientific Advisory Group of WECAFC
SPAW Protocol	Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region
TDA	CLME Project draft Regional Transboundary Diagnostic Analysis, May, 2011
UNCED Development	1992 United Nations Conference on Environment and

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UNGA	United Nations General Assembly
VME	vulnerable marine ecosystem
VMS	vessel monitoring system
WCR	wider Caribbean region
WECAFC	Western Central Atlantic Fishery Commission

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## 1. INTRODUCTION AND BACKGROUND

A process to strengthen the Western Central Atlantic Fisheries Commission (WECAFC) was initiated over ten years ago and resulted in the adoption of a new Statute in 2006<sup>1</sup> and new Rules of Procedure in 2008<sup>2</sup>. However, since 2008 the Commission, its subsidiary body the Scientific Advisory Group and its five *ad hoc* Working Groups,<sup>3</sup> although having significant potential in their modernized form, have largely been inactive.

A thorough overview and analysis of WECAFC is presented in FAO Fisheries and Aquaculture Circular 1050, “Western Central Atlantic Fishery Commission. Historical overview, impacts and main lessons learned”, authored by Messrs. Renard and the late Bissessar Chakallal, former Secretary of WECAFC.<sup>4</sup>

The objective of this document is to provide a focus for members on the current priorities of the international community in relation to broad-based fisheries management, as reflected in international fisheries instruments, and thereby to inform members on potential priorities for fulfilling the objectives, principles and mandate of WECAFC. For those Members that have not yet become party to the instruments or implemented their provisions, this document provides information and reasons, in the WECAFC context, why they should consider doing so.

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<sup>1</sup> FAO Council Resolution 1/131, Revised Statutes of the Western Central Atlantic Fishery Commission (WECAFC), adopted in November, 2006.

<sup>2</sup> Adopted at the Thirteenth session of the Commission.

<sup>3</sup> *ad hoc* Working Group on Shrimp and Ground Fish Resources in the Brazil-Guianas Shelf; *ad hoc* Working Group on Queen Conch (*Strombus gigas*); *ad hoc* Working Group on Caribbean Spiny Lobster (*Panulirus gigas*) Resource in the WECAFC area; *ad hoc* Flyingfish Working Group of the Eastern Caribbean; *ad hoc* Working Group on the Sustainable Development of Moored FAD Fishing in the Lesser Antilles.

<sup>4</sup> *FAO Fisheries and Aquaculture Circular* No. 1050. Rome, FAO. 2010. 172p. It is dedicated to the memory of our friend and colleague Bissessar Chakalall who was the Senior Fisheries Officer at the FAO Subregional Office for the Caribbean.

To this end, this Part introduces the functions and responsibilities of WECAFC and relevant outcomes of its most recent Sessions and meetings. It also introduces six recent international fisheries instruments and indicates those WECAFC Members that are parties to the three legally binding instruments. In Part 2, the framework for each instrument is described as well as its relevance to the WECAFC region, key activities in the region to implement the instrument and potential priorities for implementation.

## 1.1 WECAFC functions and responsibilities

The fundamental importance of implementing international fisheries instruments, including the 1995 FAO Code of Conduct for Responsible Fisheries (Code of Conduct), figures prominently in the Statutes of WECAFC. These instruments provide a clear basis for improved fisheries governance and harmonization of conservation, management and development, whether they are legally binding or voluntary.

The Code of Conduct, which provides a foundation for fisheries programmes, laws and policies at all levels, appears prominently in the WECAFC Statute in the contexts of the General Objective, General Principles, and Functions and Responsibilities. Members report on their progress in its implementation at WECAFC Sessions, even though it is non-binding.

Importantly, the Commission is given a wide range of functions and responsibilities in Article 6 of its Statute, as shown in Annex 1. A key function is to “**assist its members in implementing relevant fisheries instruments...**”<sup>5</sup> Several other functions and responsibilities of the Commission are based on the requirements of binding instruments or the agreed actions in voluntary instruments described in this document, including those to:

- help fishery managers in the development and implementation of fishery management systems that take due account of environmental, social, economic and cultural concerns;<sup>6</sup>
- keep under ongoing review the state of the fishery resources in the area and the related industries and promote the interchange of related information;<sup>7</sup>
- promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the areas of competence of the Commission, including on the interactions between fisheries and the ecosystem, and design programmes required for this purpose;<sup>8</sup>
- provide advice on management measures to member governments and competent fisheries organizations;<sup>9</sup>
- provide advice on monitoring, control and surveillance, and promote cooperation on these matters, including joint activities, especially as regards issues of a regional or sub-regional nature;<sup>10</sup>

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<sup>5</sup> FAO Council Resolution 1/131, Revised Statutes of the Western Central Atlantic Fishery Commission (WECAFC), adopted in November, 2006. Article 6.b. This provision refers “in particular” to the Code of Conduct and associated International Plans of Action but is general in nature and applies to all international fisheries instruments.

<sup>6</sup> Article 6(c).

<sup>7</sup> Article 6(d).

<sup>8</sup> Article 6(e).

<sup>9</sup> Article 6(h).

<sup>10</sup> Article 6(i).

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- promote and facilitate harmonizing of relevant national laws and regulations, and compatibility of conservation and management measures;<sup>11</sup>
  - assist its Members and facilitate, as appropriate and upon their request, the conservation, management and development of transboundary and straddling stocks under their respective national jurisdictions;<sup>12</sup> and
  - serve as a conduit of independent funding to its members for initiatives related to conservation, management and development of the living resources in the area of competence of the Commission.<sup>13</sup>

Other responsibilities of the Commission relating to more technical matters such as research, data and information, institutional capacity, human resources and sanitary standards are addressed in, and consistent with, a range of international fisheries instruments.

The functions and responsibilities of the Commission are based on the Objective and General Principles stated in Articles 1 and 2 of the WECAFC Statute. The Objective is to promote the effective conservation, management and development of living marine resources and address common problems of fisheries management and development. The General Principles include promoting the application of the Code of Conduct and its related instruments, including the precautionary approach and the ecosystem approach to fisheries management, and coordinating and cooperating closely with other relevant international organizations on matters of common interest.

A third General Principle of WECAFC is to ensure adequate attention to small-scale, artisanal and subsistence fisheries. It is recognized that the international community has been strengthening its focus in this area over the past years and improved management of activities in this sub-sector will be fundamental to the status of the stocks, but an international fisheries instrument on small-scale fisheries as requested by the FAO Committee on Fisheries (COFI) at its Twenty-ninth Session in 2011 is in the early stages of development. This document will take these fisheries into account in the context of broader instruments that *inter alia* promote an ecosystem approach and compatibility of measures.

After the WECAFC Statute was revised, the Scientific Advisory Group (SAG) at its Fourth session in 2007 observed that few initiatives were undertaken in the region on the formulation of sound national fisheries policies despite the need for countries to address the requirements posed by the evolving international normative fisheries framework. This was of high priority and should be addressed urgently through national dialogue involving the pertinent government entities.<sup>14</sup>

In this respect it should be noted that the Caribbean Regional Fisheries Mechanism (CRFM), the ACP Fish II Programme, the Organization for the Fishing and Aquaculture Sector of the Central

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<sup>11</sup> Article 6(m).

<sup>12</sup> Article 6(n).

<sup>13</sup> Article 6(r).

<sup>14</sup> FAO Western Central Atlantic Fishery Commission/Commission des pêches pour l'Atlantique Centre-Ouest/Comisión de Pesca para el Atlántico Centro-Occidental. Report of the fourth session of the Scientific Advisory Group. Mérida, Mexico, 2–4 April 2007. Rapport de la quatrième session du Groupe scientifique consultatif. Mérida, Mexique, 2–4 avril 2007. Informe de la cuarta sesión del Grupo Asesor Científico. Mérida, México, 2–4 de abril de 2007. FAO Fisheries Report/FAO Rapport sur les pêches/FAO Informe de Pesca. No. 842. Rome/Roma, FAO. 2007. 34p. para. 12.



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American Isthmus (OSPESCA) and FAO have in recent years supported a number of national and regional policy development initiatives in fisheries and aquaculture in the WECAFC area. However, there are still many gaps in national and regional level fisheries normative frameworks.

Other important agreement and recommendations by SAG in 2007, having implications for a broader ecosystem approach were that:

- MPAs should be established within the broader framework of the EAF and integrated coastal zone management/integrated coastal area management, and a regional meeting should be convened to share the large body of existing knowledge on the subject with fisheries managers of the region;
- If the poor status of management of fisheries in the region this was not urgently reversed, accompanied by effective control over other human impacts of marine and coastal ecosystems, the already poor state of many resources and ecosystems would deteriorate further;
- FAO reports on the status of stocks should go even further in reporting on trends and the conditions of critical ecosystem habitats and consider important patterns and events in relation to the wider ecosystem, particularly the physical, oceanographic environment; and
- the need for greater attention to governance was endorsed, especially in the light of the reports from other activities in the region that identified deficiencies in governance as major factors contributing to unsustainability.

The Thirteenth session of WECAFC in 2008, in considering the report of this session of SAG, suggested that the effectiveness of management would be greatly increased if management measures were taken in coordination by countries. The potential role for WECAFC in this field was noted.

The Commission also urged member countries to contribute to and cooperate very closely with the UNDP/UNESCO/IOCARIBE/GEF – Caribbean Large Marine Ecosystem (CLME) Project to ensure that high priority issues related to fisheries in the region were adequately addressed, especially at the ecosystem level. In addition, the Commission suggested that WECAFC could assist in coordinating regional harmonization of (fisheries) regulations.<sup>15</sup> This is an area which still needs considerable attention.

CRFM, FAO, the Centre for Resource Management and Environmental Studies (CERMES), the United Nations Environment Programme (UNEP) and others have taken important steps in recent years towards collecting and analysing information for ecosystem-based management of reefs, spiny lobster, shrimp, ground fish, flying fish and large pelagic resources.

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<sup>15</sup> Otherwise, the session focused mainly on the state of fishery resources and the status and trends of fisheries and aquaculture in the WECAFC region; climate change implications for fisheries and aquaculture; FAO fishery statistics programme and WECAFC; and Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) issues with respect to fish trade and CITES/FAO Memorandum of Understanding.

As noted above, since 2008 the *ad hoc* Working Groups, SAG and the Commission have largely been inactive. The recommendations made by the Commission are, however, still relevant and action towards implementation of the recommendations is needed more urgently than ever.

## 1.2 International fisheries instruments

Since 1993, the international community has adopted three binding fisheries instruments, two voluntary international guidelines and one publication on technical guidelines with a focus on broad-based fisheries management that are of significance to the WECAFC mandate and Area of Competence. They are the:

- 1993 FAO Compliance Agreement;<sup>16</sup>
- 1995 UN Fish Stocks Agreement;<sup>17</sup>
- 2009 FAO Port State Measures Agreement;<sup>18</sup>
- 2003 FAO Technical Guidelines on the ecosystem approach to fisheries (EAF);<sup>19</sup>
- 2008 FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas;<sup>20</sup> and
- 2010 FAO International Guidelines on Bycatch Management and Reduction of Discards;<sup>21</sup>

The three binding Agreements are all based on the 1982 UN Convention on the Law of the Sea (1982 Convention) and share many synergies. The status of the WECAFC Members in relation to the instruments is shown in Figure 1.

The two International Guidelines, developed in FAO Technical Consultations and based on outcomes of expert consultations are also build on the 1982 Convention but focus more on specific aspects of fishing activities. The aim of the Technical Guidelines on EAF was to make EAF operational by recognizing that the approach was a way to implement many provisions of the Code of Conduct and an extension of fisheries management practices.

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<sup>16</sup> FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. Available at <http://www.fao.org/legal/treaties/012t-e.htm>.

<sup>17</sup> The United Nations 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 (in force as from 11 December 2001). Available at [http://www.un.org/depts/los/convention\\_agreements/convention\\_overview\\_fish\\_stocks.htm](http://www.un.org/depts/los/convention_agreements/convention_overview_fish_stocks.htm).

<sup>18</sup> Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Available at <http://www.fao.org/Legal/treaties/037t-e.pdf>.

<sup>19</sup> FAO Fisheries Department. The ecosystem approach to fisheries. *FAO Technical Guidelines for Responsible Fisheries*. No. 4, Suppl. 2. Rome, FAO. 2003. 112 p. This forms part of the the series of FAO Technical Guidelines for Responsible Fisheries. Available at <ftp://ftp.fao.org/docrep/fao/005/y4470e/y4470e00.pdf>.

<sup>20</sup> FAO. International Guidelines for the Management of Deep-sea Fisheries in the High Seas. Directives internationales sur la gestion de la pêche profonde en haute mer. Directrices Internacionales para la Ordenación de las Pesquerías de Aguas Profundas en Alta Mar. Rome/Roma, FAO. 2009. 73p. Available at <ftp://ftp.fao.org/docrep/fao/011/i0816t/i0816t.pdf>.

<sup>21</sup> FAO. Report of the Technical Consultation to Develop International Guidelines on Bycatch Management and Reduction of Discards. Rome, 6–10 December 2010. *FAO Fisheries and Aquaculture Report*. No. 957. Rome, FAO. 2010. 32p. Available at <http://www.fao.org/cofi/24783-010c9c0c7cae3b0bb7f6b70baec897306.pdf>.

The main features of the fisheries instruments, and recommended priorities for implementation by WECAFC members, are described below. Although most of them are applicable mainly to high seas fisheries or foreign fishing vessels, they are equally important for in-zone fisheries management. The need for compatibility of management measures between the two areas is a theme throughout many of the instruments, as is the agreement on an ecosystem approach to fisheries management.

**Figure 1**  
**Status of International Fisheries Instruments in WECAFC Members<sup>22</sup>**

*Dark shading* indicates the Member is party to the Agreement. *Light shading* indicates the Member has signed the Agreement. **“Ratified”** indicates the Member has signed and ratified the Agreement, but it is not yet in force.

Member	UN Convention on the Law of the Sea <sup>23</sup>	UN Fish Stocks Agreement <sup>24</sup>	FAO Compliance Agreement <sup>25</sup>	FAO Agreement on Port State Measures <sup>26</sup>
Antigua and Barbuda				
Bahamas				
Barbados				
Belize				
Brazil				
Colombia				
Cuba				
Dominica				
Dominican Republic				
European Union				Ratified
France				
Grenada				
Guatemala				
Guinea				
Guyana				
Haiti				

<sup>22</sup> As at 1 September 2011.

<sup>23</sup> Status available at <http://untreaty.un.org/cod/avl/ha/uncls/uncls.html><http://www.un.org/depts/los/convention>. There were 162 parties as at 1 September 2011.

<sup>24</sup> Status available at [http://www.un.org/depts/los/convention\\_agreements/convention\\_overview\\_fish\\_stocks.htm](http://www.un.org/depts/los/convention_agreements/convention_overview_fish_stocks.htm).

<sup>25</sup> Status available at <http://www.fao.org/legal/treaties/list1-e.htm>.

<sup>26</sup> Status available at <http://www.fao.org/legal/treaties/list1-e.htm>.

Member	UN Convention on the Law of the Sea <sup>23</sup>	UN Fish Stocks Agreement <sup>24</sup>	FAO Compliance Agreement <sup>25</sup>	FAO Agreement on Port State Measures <sup>26</sup>
Honduras				
Jamaica				
Japan				
Mexico				
Netherlands				
Nicaragua				
Panama				
Republic of Korea				
Saint Kitts and Nevis				
Saint Lucia				
Saint Vincent/Grenadines				
Spain				
Suriname				
Trinidad and Tobago				
United Kingdom				
United States of America				
Boliv Rep of Venezuela				

In addition, as shown in Figure 2, the WECAFC area has extensive areas of high seas and little is known about the fisheries, particularly those for deep-sea species. It would be advantageous to implement the instruments on a precautionary basis<sup>27</sup> in these areas, before there is an opportunity for negative impacts from fishing or related activities.

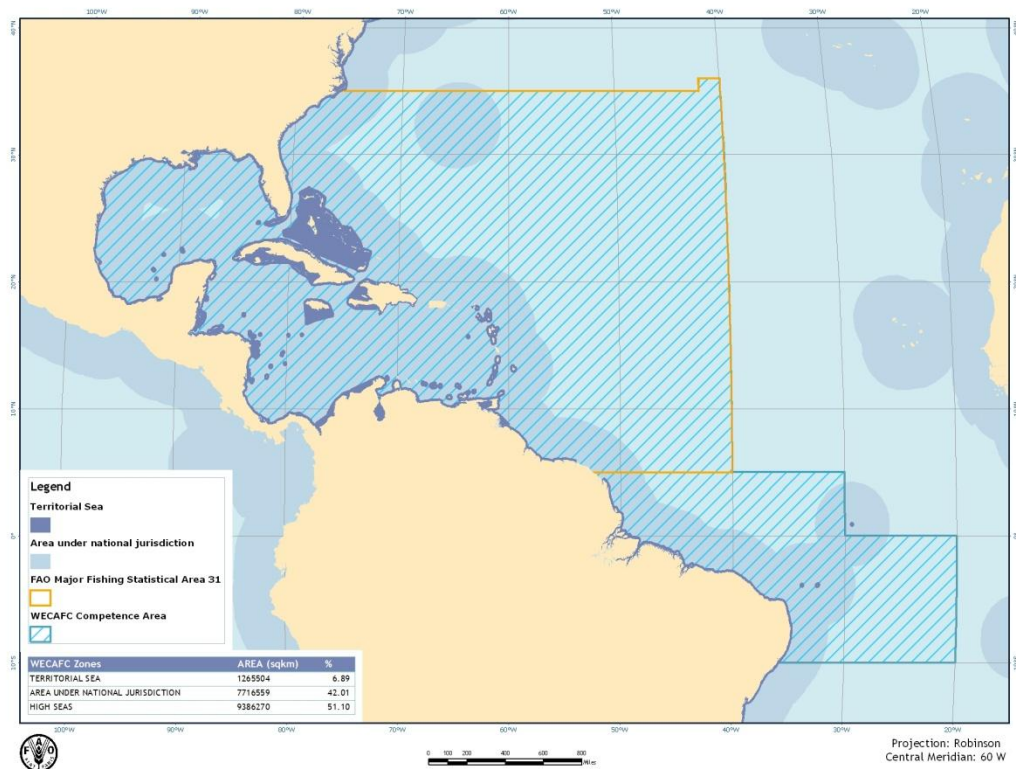
Members may implement the provisions of binding instruments to which they are not party, if for political or other reasons they are unable or unwilling to become party. This may be done both individually and through regional fishery bodies. In this way, they will be acting consistently with broader regional and international fisheries instruments which support their implementation.

<sup>27</sup> 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. 1992 Rio Declaration on Environment and Development. Available at <http://www.unep.org/Documents/Multilingual/Default.asp?documentid=78&articleid=1163>.

An example of a broader regional fisheries instrument is the 2010 CRFM Castries (St. Lucia) Declaration on Illegal, Unreported and Unregulated (IUU) Fishing,<sup>28</sup> which, *inter alia*, expressed in the preamble the desire “of achieving more effective implementation of various international instruments for sustainable fisheries development adopted or enacted in the past decades” and urged all Member States to undertake certain actions, including:

- to implement relevant provisions of the FAO Code of Conduct on Responsible Fishing, and the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation) as it relates to achieving sustainable fisheries; and
- that have not yet done so to become parties to the 1982 UN Convention, the FAO Compliance Agreement, the UN Fish Stocks Agreement, and other relevant international agreements that will provide support in the fight against IUU fishing.

**Figure 2**  
**WECAFC Area of Competence**



<sup>28</sup> Approved by the Ministerial Council of the Caribbean Regional Fisheries Mechanism at its Second Special Meeting held in St. Lucia, 28 July, 2010.

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Other regional instruments that have encouraged such implementation are described in the text below. International fisheries instruments such as the UNGA Resolutions also support the implementation of the fisheries instruments.<sup>29</sup>

## 2. INTERNATIONAL FISHERIES INSTRUMENTS

### 2.1 1993 FAO Compliance Agreement

*Of the 39 parties to the Compliance Agreement, 12 are WECAFC Members. Of these, eight have become party to the broader UN Fish Stocks Agreement.*<sup>30</sup>

The FAO Compliance Agreement was the first binding international fisheries instrument to be adopted in the era after the 1992 United Nations Conference on Environment and Development (UNCED). The purpose of the Compliance Agreement is to provide an instrument for countries to take effective action, consistent with international law, to ensure compliance with applicable international conservation and management measures for living marine resources of the high seas. Many of its provisions, while still relevant, have been reinforced and strengthened by subsequent post-UNCED instruments including the UN Fish Stocks Agreement.

The Compliance Agreement builds upon the requirements for high seas fishing in the 1982 UN Convention on the Law of the Sea and seeks to strengthen compliance with the conservation and management measures of regional fisheries management organizations (RFMOs) by focusing on flag State responsibility for high-seas fishing operations.<sup>31</sup> An objective is to ensure that the vessels concerned do not undermine the effectiveness of the RFMO measures on the high seas.

Provisions include requirements that:

- flag States must ensure that their vessels do not engage in any activity that undermines the effectiveness of international fishery conservation and management measures, whether or not the flag State is a member of the RFMO that adopted such measures;
- any vessel used for fishing on the high seas must hold an authorization from its flag State and comply with the conditions of the authorization; and
- a flag State must not grant such authorizations unless it is able to exercise effectively the fishing activities of that vessel.

This means that fisheries administrations must require authorizations for high seas fishing and set conditions for high seas fishing that prohibit vessels to undermine measures adopted by RFMOs. They must also ensure compliance through such means as reporting, observers, use of vessel

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<sup>29</sup> For example, the annual UNGA Resolution on Sustainable Fisheries has consistently reflected the support of the international community for a range of initiatives and agreements, both binding and non-binding, and called for countries to implement their provisions.

<sup>30</sup> As at 1 September 2011.

<sup>31</sup> A flag State may exempt vessels less than 24 meters in length.

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monitoring systems (VMS), vessel marking requirements and other tools. It is intended to discourage the use of “flags of non-compliance”.

To discourage “flag-hopping” by vessels that may have undermined RFMO high seas measures contrary to an authorization issued by another State, the Agreement requires that the flag State not issue authorizations under certain circumstances where the vessel had previously been authorized for high seas fishing by another State, e.g. where the authorization has been suspended or withdrawn.

Requirements for international cooperation through the exchange of information is key to the Agreement, and this foreshadowed development by RFMOs of vessel lists – both for authorized vessels and those undertaking IUU fishing. FAO has established a High Seas Vessels Authorization Record (HSVAR) database pursuant to the Agreement, which contains distinctive and descriptive elements of high seas fishing vessels as well as information including registration and authorization status and infringements.<sup>32</sup> However, the database does not accurately reflect vessels engaged in high seas fishing that have been flagged by parties to the Agreement. Only 21 of the 39 parties to the Agreement have contributed information, and the information is not received regularly – the last update for over half of the parties on the database is 2007 or earlier.<sup>33</sup> Of the WECAFC Members party to the Agreement, only five have submitted information<sup>34</sup> and one, while not a party, has voluntarily submitted data<sup>35</sup>.

Over the past two decades RFMOs have strengthened their requirements for provision of information by Members and for information systems, including among each other. This has had the practical effect of shifting the focus of information provision and systems to the regional and inter-regional level and may explain in part why the HSVAR is incomplete and not up to date.

Port State measures are envisaged, but in a relatively primitive form that does not permit the port State to carry out investigations without first making arrangements with the flag State. The Agreement does not foresee an active and independent port State role in the Agreement’s implementation. This has been overtaken by more recent instruments as described below.

### **2.1.1 Recommended priorities for implementation**

The focus of the Compliance Agreement is actions by parties, particularly flag States. There is a role for FAO relating to information, but it is clear that this role has been overtaken by other developments principally at regional and inter-regional levels. RFBs are not given a role in implementation.

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<sup>32</sup> Information is available at <http://www.fao.org/fishery/collection/hsvar/en>.

<sup>33</sup> Only 8 countries have maintained data that could be considered current, as the most recent updates were made in 2009 – 2010. The dataset presently contains 7 600 records, of which 6 169 correspond to vessels which appear as currently authorized to fish in the high seas, since no delete reason, or delete date, has been indicated by data providers. The difference between the total number of records maintained in the dataset and the number of authorized vessels arises from the fact that historical information is being maintained as part of the records (e.g., changes in flag, ownership, duplicate registries, terminated authorizations).

<sup>34</sup> Belize, Canada, European Union, Japan, USA.

<sup>35</sup> Honduras.

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It is also clear that many of the provisions of the Compliance Agreement have been strengthened by subsequent international fisheries instruments. However, where a WECAFC Member has not yet become party to such instruments or has not implemented their more modern provisions, it is recommended that the following priorities be considered for implementation of the Compliance Agreement;

- a. implementation of relevant policies, laws and regulations, including sanctions, particularly those relating to flag State responsibilities;
- b. implementation of procedures for the issuance of authorizations for high seas fishing;
- c. overseeing high seas fishing operations so that the vessel does not undermine RFMO conservation and management measures;
- d. ensuring compliance mechanisms are in place; and
- e. establishing a record of fishing vessels authorized to fish on the high seas and implementing procedures and systems for the sharing of information and data.

In the WECAFC Area, parties to the Compliance Agreement must ensure that the conservation and management measures of the International Commission for the Conservation of Atlantic Tuna (ICCAT) and the International Whaling Commission (IWC) are not undermined. However, other RFMOs with a management mandate may be established in future, and in any case implementation of the Agreement would strengthen the effectiveness of flag State responsibilities of WECAFC Members.

## **2.2 1995 UN Fish Stocks Agreement**

*Of the 78 parties to the UN Fish Stocks Agreement, 17 are WECAFC Members.*<sup>36</sup>

The outcome of a 2006 review of the state of the highly migratory fish stocks and straddling fish stocks in the WECAFC region is shown in Figure 3. It shows that there is a clear need for the implementation of the UN Fish Stocks Agreement in the WECAFC region.

The 1995 UN Fish Stocks Agreement is a direct outcome of UNCED; the need for the Agreement was expressed by a series of pre-UNCED meetings of like-minded countries. As a result it was developed at the request of the United Nations General Assembly (UNGA) and is now broadly applied by States and RFMOs. It is a comprehensive instrument which builds upon the 1982 Convention and contains the new approaches and principles for sustainability expressed at UNCED. It addresses the sweeping changes in fisheries since the 1982 Convention was adopted and elaborates a wide range of measures and actions in a clear and practical manner.

The objective of the Agreement is to ensure long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of relevant provisions of the 1982 Convention. A major focus is to avoid the undermining of conservation and management measures adopted by RFMOs for the high seas – currently, this would be referred to as IUU fishing activities but the term was first used in 1997, three years after the adoption of this Agreement.

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<sup>36</sup> As at 1 September 2011.



It applies to areas beyond national jurisdiction, except for the Articles in Part II, described below, on general principles, the application of the precautionary approach and the compatibility of conservation and management measures. The aim of requiring the compatibility of measures that apply within national zones and those that apply on the high seas is to manage the fish stocks in their entirety.<sup>37</sup>

In addition, although not provided in the Agreement, the international community accepts that it applies also to discrete high seas stocks. In respect of straddling fish stocks, described in the Agreement as those that swim between areas under national jurisdiction and the high seas, it is accepted that the Agreement applies also to these stocks and to “shared stocks” - stocks that swim between waters of adjacent or opposite coastal States, where there are no high seas. In effect, the Agreement applies to some of the world’s most important commercial species of fish such as tunas, sharks, whales, marlins, oceanic squids, halibut, hake and salmon.

### Figure 3

#### Highly migratory fish stocks and straddling fish stocks in the WECAFC Area

A 2006 FAO analysis on the state of world highly migratory, straddling and other high seas fishery resources and associated species<sup>38</sup> shows that the proportion of highly migratory tuna and tuna-like catches made outside EEZs in the WECAFC Area during 2000–2004, for all highly migratory tuna and tuna-like species and all fishing gears, was just over 25%.<sup>39</sup>

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<sup>37</sup> Article 7(2) requires that conservation and management measures established for the high seas and those adopted for areas under national jurisdiction must be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety.

<sup>38</sup> Maguire, J.-J.; Sissenwine, M.; Csirke, J.; Grainger, R.; Garcia, S. The state of world highly migratory, straddling and other high seas fishery resources and associated species. *FAO Fisheries Technical Paper*. No. 495. Rome: FAO. 2006. 84p.

<sup>39</sup> *Ibid.* Figure 5.

For straddling fish stocks, the analysis of catches by non-coastal States identified catches of a mixture of coastal and oceanic species in general categories such as: sharks, rays, skates, etc. not elsewhere identified (nei); croakers, drums nei; hairtails, scabbardfishes nei; marine fishes nei, and Natantian decapods nei, which suggest that these catches were probably made within EEZs under fishing agreements with coastal States.<sup>40</sup>

However, it is not known which fleets are fishing in the high seas of the WECAFC Area. The catches are therefore unreported and may have considerable impact on the harvest of fish within areas under national jurisdiction of Members in the region.

At the Thirteenth Session of the Commission held in 2008, attention was drawn to the decrease in recorded catches of oceanic large pelagics, common octopus and queen conch while catches of coastal large pelagics, sharks and seabob shrimp have increased in recent years, probably indicating increasing fishing effort.<sup>41</sup>

In the Caribbean region, management of shared resources has not been effected through a regional mechanism with a management mandate. Instead, countries have cooperated through WECAFC, which has performed an advisory role. Some working groups had been established, as described above in Part 1.1.

In addition, cooperation is being developed through the CRFM. Its 2011-2012 Work Plan includes the preparation of a regional framework agreement for effective management, conservation and sustainable use of queen conch and spiny lobster under the jurisdiction of CRFM Member States.<sup>42</sup> As noted above, ICCAT, OSPESCA and the IWC also play a role for some Members in the WECAFC Area.

The key parts of the 1995 UN Fish Stocks Agreement are:

**Part I: General Provisions.** This describes the use of terms, the objective and application, as described above.

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<sup>40</sup> The methodology involved examining catches by country the WECAFC Area to determine which species were being reported by non-coastal States which were presumed to be fishing on the high seas. This information was tempered by knowledge of situations where distant-water fishing countries have access agreements to EEZs, particularly when the species in the reported catch were not known to be in commercial abundance on the high seas. Using this approach, a refined list of species likely to be fished as straddling stock and high seas fish stocks was prepared.

<sup>41</sup> See WECAFC/XIII/08/2. The status of fishery resources in the WECAFC region. Also reported was the general trend of decreasing landings of reef fishes including groupers nei, snappers and jobfishes and others.

<sup>42</sup> CRFM Administrative Report – CRFM Work Plan and Budgets: April 1, 2010 to March 31, 2011 and April 1, 2011 to March 31, 2012.

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**Part II: Conservation and management of straddling fish stocks and highly migratory fish stocks.** Key responsibilities for State parties are described, including general principles, application of the precautionary approach and the compatibility of conservation and management measures.

**Part III: Mechanisms for international cooperation.** The obligation of States to cooperate through subregional or regional fisheries management organizations or arrangements (RFMO/As) is elaborated. Among other things, this Part lays the foundation for effective measures and actions of RFMO/As by setting out rules relating to establishment, membership, access, functions, transparency, collection of scientific data and cooperation in scientific research, collection and provision of information, new entrants to the fisheries and non-member States whose vessels undermine the effectiveness of high seas conservation and management measures. It also calls for existing mechanisms to be strengthened to improve their effectiveness.

**Part IV: Non-members and non-participants.** Non-members or organizations and non-participants in arrangements are not discharged from the obligation to cooperate in the conservation and management of fish stocks, and cooperative actions are elaborated.

**Part V: Duties of the flag State.** The duties of the flag State are comprehensively spelled out, and build upon those in the Compliance Agreement.

**Part VI: Compliance and enforcement.** Compliance and enforcement by the flag State, international cooperation in enforcement and a framework for RFMO boarding and inspection schemes and procedures is elaborated. Port State measures are significantly strengthened from previous instruments - the agreement recognizes that port States have a right and a duty to take measures to promote the effectiveness of RFMO conservation and management measures.

**Part VII: Requirements of developing States.** A Part VII Assistance Fund has been established for assistance to developing States to be directed towards certain activities.

**Part XII: Review conference.** The Agreement requires a review conference of the Parties to be held four years after entry into force of the Agreement.<sup>43</sup> Its purpose is to review and assess the adequacy of the Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of its provisions to better address any continuing problems.

The remaining Parts of the Agreement (VII – XIII, except Part XII) are standard for international agreements and address peaceful settlement of disputes, non-parties, good faith and abuse of rights, responsibility and liability and final provisions.

Unlike the Compliance Agreement, but like all subsequent instruments described in this document, the Fish Stocks agreement gives an important role both to States and RFMO/As for implementation at both national and regional levels. Requirements for implementation at national

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<sup>43</sup> Article 36.

level are focused In Part II, and in requirements for flag State and port State rights and responsibilities. At regional, the role and responsibilities for “Mechanisms for international cooperation” are described in Part III.

Part II on the “**Conservation and management of straddling fish stocks and highly migratory fish stocks**” sets out the following key areas for implementation at national level.<sup>44</sup>

**Article 5: General Principles.** The twelve general principles that must form the basis for States’ actions and measures for conservation and management have been integrated into many other instruments at all levels. The following cross-cutting principles are perhaps the most relevant to the other instruments reviewed in this document, as they reinforce the importance of applying the precautionary and ecosystem approaches, managing by-catch and reducing discards, exchanging information and implementing MCS:

- (c) apply the precautionary approach in accordance with article 6.
- (d) assess the impacts of fishing on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks.
- (e) adopt conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened.
- (f) minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.
- (g) protect biodiversity in the marine environment.
- (J) collect and share, in a timely manner, complete and accurate data on fishing activities...;
- (k) Implement and enforce conservation and management measures through effective monitoring, control and surveillance (MCS).

**Article 6: Application of the precautionary approach.** Requirements and guidelines for applying the precautionary approach are provided, including for new or exploratory fisheries and where a natural phenomenon has an adverse impact on the status of the stocks.

**Article 7: Compatibility of conservation and management measures.** Measures for the high seas and areas under national jurisdiction must be compatible to ensure conservation and management of the fish stocks in their entirety. For straddling stocks, there must be cooperation between parties that fish for the same stocks as they swim between national zones and the high seas. For highly migratory stocks – which are listed in Annex I of the Agreement - the objective is to ensure conservation of the stocks throughout the region, both within and beyond areas under national jurisdiction. This

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<sup>44</sup> Article 3 specifically refers to the application of these requirements within areas under national jurisdiction.

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means that States would generally have to take measures compatible with those adopted by RFMOs and to cooperate with RFMOs and other States to ensure compatibility.

The Agreement elaborates in Articles 18 and 19, to a greater extent than the Compliance Agreement, the duties of the flag State based on requirements to authorize vessels for fishing beyond areas of national jurisdiction. Among other things, flag States are required to control their vessels, establish certain regulations and a national record of fishing vessels. The Agreement is emphatic that flag States must licence or authorize their vessels for fishing on the high seas and sets out some conditions of licence. They must also establish requirements for vessel marking, reporting and recording, catch verification, MCS, regulation of transshipment and must ensure compliance by their vessels with subregional, regional or global measures.

The flag State is given responsibilities for compliance, regardless of where any violations occur, and are required to carry out investigations and judicial proceedings expeditiously. A provision that has been effectively implemented in national law is the requirement for sanctions to be effective and deprive offenders of the benefits accruing from their illegal activities.

The right and duty of port States to take measures is strengthened from previous instruments, but it in turn has been strengthened considerably by Article 26. This Agreement allows for inspections of documents, catches and gear and provides that the port State may, under its regulations, prohibit landings and transshipments of IUU caught fish.

The Agreement contains some groundbreaking provisions on compliance and enforcement through international, subregional and regional cooperation, and RFMOs have played a vital role as mechanisms for cooperation. The establishment by many RFMOs of authorized vessel lists and high seas boarding and inspection schemes are examples of this. Although WECAFC has not been generally involved in fisheries compliance and enforcement, this area will be strengthened under an ACP Fish II project over the coming years.

The objective of the project, as described in the CRFM draft Second Medium Term Plan Work Programme 2008-2011,<sup>45</sup> is to enhance the effectiveness of MCS above its current state by creating and sustaining the necessary harmonized and contemporary legislative and regulatory regimes; building capacity in national fisheries administrations; and fostering an attitude of compliance among fishers, which is intended to facilitate and support the management of fisheries nationally and regionally. Activities include developing national plans of action to combat IUU fishing, updating legislation, establishing fisheries and vessel monitoring information databases and MCS training programmes. Significantly, the establishment of a regional fisheries information system and data exchange mechanism is foreshadowed.

Another important initiative is the draft Declaration for the creation of a regional network for the cooperation and coordination on fisheries MCS adopted on 1 September 2011 by the Regional Conference on MCS held in San Salvador, El Salvador.<sup>46</sup> The draft Declaration, which will be submitted to Ministers for endorsement, recognizes the scope of fishing activities within and beyond areas under national jurisdictional waters. It identifies benefits of cooperation and

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<sup>45</sup> Available at <http://www.caricom-fisheries.com/LinkClick.aspx?fileticket=m9XRoPeJwC4%3d&tabid=126>.

<sup>46</sup> The Conference was attended by representatives of Maritime Security, Naval Forces of the Conference of Armed Forces for Central America, Maritime Authorities, National Fisheries Authorities, Officials from the Central American Maritime Transportation Commission and OSPESCA.

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coordination in fisheries MCS, the advantages of obtaining and sharing MCS information required by national laws, regional and international instruments including the Tegucigalpa Protocol to the Charter of the Organization of Central American States as well as specific provisions of the Code of Conduct, Compliance Agreement and UN Fish Stocks Agreement.

The Part VII Assistance Fund has been established to provide assistance to developing States for certain activities, including:

- improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;
- stock assessment and scientific research; and
- monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Developing States parties to the Agreement may make use of these funds. Information and application procedures are available on the UN website.<sup>47</sup>

Since the entry into force of the Fish Stocks Agreement, its parties have met annually on an informal basis to monitor progress in implementation. At such meetings, parties normally address implementation (including possible means of strengthening implementation and promoting wider participation), issues to be considered in the next round of informal consultations, the status of the Part VII Assistance Fund and recommendations for parties to convey to the next UNGA session.

The first Review Conference required under Article 36 was convened at UN Headquarters in 2006. Discussion focussed on the conservation and management of stocks; mechanisms for international cooperation and non-members; MCS, compliance and enforcement, and developing States and non-parties. The Review Conference expressed its support for a binding international agreement on port State measures to be developed within FAO and it made a series of recommendations for improved implementation of the Agreement by States and RFMOs.

The Review Conference resumed in May, 2010 and the Secretary-General's report to the conference described the implementation of the 2006 recommendations, based on responses to a questionnaire distributed by the UN Division for Ocean Affairs and the Law of the Sea.<sup>48</sup> The Resumed Review Conference addressed similar matters to those in the initial session,<sup>49</sup> including matters relating to the ecosystem approach to fisheries and the management of deep sea fishing.

RFMOs are grappling with practical aspects of the Agreement's implementation such as how to apply the precautionary approach in fisheries management, how to implement ecosystem

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<sup>47</sup> [http://www.un.org/Depts/los/convention\\_agreements/fishstocktrustfund/fishstocktrustfund.htm](http://www.un.org/Depts/los/convention_agreements/fishstocktrustfund/fishstocktrustfund.htm).

<sup>48</sup> A number of WECAFC members party to the Agreement responded.

<sup>49</sup> The reports of the Review Conference for both the 2006 and 2010 sessions, together with the Secretary General's Report describing the status of the stocks and, for the 2010 session, the implementation of the recommendations of the 2006 Review Conference, are available at:

[www.un.org/Depts/los/convention\\_agreements/review\\_conf\\_fish\\_stocks.htm](http://www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm).

management, and how to address transparency. Interestingly, these form part of the agreed criteria for performance reviews that are being carried out on a number of RFMOs, in order that improvements can be made as appropriate.

As shown in Figure 4, there are many fundamental challenges for implementation in the WECAFC region including a multiplicity of institutions and a clear need for planning and decision-making in relation to matters governed by the Agreement.<sup>50</sup>

**Figure 4**

**Some challenges for many WECAFC Members for the management of straddling fish stocks and highly migratory fish stocks in accordance with the UN Fish Stocks Agreement**

At the Thirteenth Session of the Commission, the Secretariat reported that the status of resources and management effectiveness varied considerably from country to country and even from fishery to fishery within a single country. Fisheries and fishery resources across the region that were likely to be most urgently in need of improved management included the inshore reef fish resources, sharks, Caribbean spiny lobster and queen conch, while urgent pre-emptive management to optimize sustainable benefits was required for coastal large pelagics and seabob. Most of the WECAFC Members have limited human and financial capacity for monitoring, assessment and management of their fisheries.

It was therefore considered necessary to develop management systems that are realistic and that will be effective even with limited information and limited enforcement capacity. In accordance with the ecosystem approach, it was also considered essential for other impacts on marine ecosystems, including on important habitats, to be taken into account and the status and productivity of the ecosystem as a whole to be assured through appropriate multi-sectoral management.

Additional challenges for the management of shared fish stocks in the region are the large geographical area, the number of unresolved maritime boundaries among WECAFC Members and the lack of information, particularly in relation to high seas fishing in the eastern region of the WECAFC Area.

<sup>50</sup> The need to address existing challenges was underlined by the Caribbean Regional Fisheries Mechanism (CRFM) in its draft Second Medium Term Plan Work Programme 2008-2011. Under the programme “Research and Data Analysis for Policy Formulation and Decision Making”, the plan is to “facilitate integrated planning as well as enhance decision making, policy formulation and collaborative management of shared fisheries resources, involving straddling and migratory species.”

This has implications for the implementation by coastal States of management measures, including fisheries enforcement, because the geographical areas for these activities would not be clear, or could be subject to competing claims and incompatible measures. As well, the absence of boundaries means that most of the fisheries resources in the region are shared or straddling resources.

The relatively high concentration of countries in the region together with, in many cases, absence of agreement on maritime boundaries both point to the need for a sound information/database for important shared stocks, as well as compatibility of management measures and the capacity and political will to implement them.

There are many concerns in the region related to the implementation of the Fish Stocks Agreement but the region is moving to overcome them. In May, 2011 the Fourth CRFM Ministerial Council accepted a draft agreement establishing the Caribbean Community Common Fisheries Policy. Among other things, in Article 12.4 it obligates participating Parties to:

“cooperate with regional fisheries management organisations and, as appropriate, other international organisations in the management of shared, straddling and highly migratory fish stocks.”

Importantly, other provisions of the Fisheries Policy Agreement support requirements in the UN Fish Stocks Agreement. Participating parties must, *inter alia*,

- (a) monitor, control and undertake surveillance of their maritime space and cooperate in monitoring, controlling and undertaking surveillance of areas contiguous to their maritime space in order to prevent, deter and eliminate illegal, unreported and unregulated fishing as appropriate;
- (b) establish an appropriate VMS to monitor the position and activity of vessels flying their flag;
- (c) adopt port and “at sea” inspection schemes;
- (d) take inspection and enforcement measures necessary to ensure compliance with the rules of this Agreement;
- (e) ensure that appropriate and effective measures are taken against violators of the applicable rules and in particular that such measures are capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements.

Before consideration by heads of State, the draft policy will be presented to the Council on Trade and Economic Development of CARICOM in October 2011, and afterwards be considered by Attorneys General. Development of the Policy was supported by ACP Fish II, and it is expected that, together with the proposed project to develop MCS on a regional basis and the initiative to develop a regional MCS Network through OSPESCA, a strong foundation for implementing the Fish Stocks Agreement will be put in place.



The Caribbean Large Marine Ecosystem (CLME) Project<sup>51</sup> in its May 2011 draft Regional Transboundary Diagnostic Analysis (TDA)<sup>52</sup> approached the issue of transboundary stocks from a different perspective. It reviewed relevant institutions and agreements in place and emphasized that they require coordinated and harmonized governance structures that operate at the appropriate geographic scales.

An excerpt from the draft Report is in Figure 5. Among the main conclusions are:

- reef, shrimp and groundfish fisheries are not currently served by a working international governance mechanism;
- small countries encounter difficulties in taking part in programmes for the management of certain species to the extent required for successful management; and
- Many large pelagic species that are distributed mainly within the wider Caribbean region (WCR) and which support small-scale fisheries receive no attention at all. A regional mechanism for their management is needed.

**Figure 5**

**CLME Regional Transboundary Diagnostic Analysis**

In a May, 2011 draft Regional Transboundary Diagnostic Analysis, the Caribbean Large Marine Ecosystem Project addressed issues relating to unsustainable fisheries, including transboundary living marine resources.

It emphasized that the issues are more pronounced at the regional level and that transboundary resources require coordinated and harmonized governance structures that operate at the appropriate geographic scales. Reef, shrimp and groundfish fisheries are not currently served by a working international governance mechanism (such as ICCAT for the oceanic large pelagic fisheries), although specially protected reef associated species come under the Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW Protocol).

<sup>51</sup> Sustainable Management of the Shared Marine Resources of the Caribbean Large Marine Ecosystem (CLME) and Adjacent Regions. It is a 4 year Global Environment Fund (GEF) intervention. The Project partners include 23 GEF countries, 2 associate countries and 11 organizations. The CLME Project began on 1 May 2009 and will run until 30 April 2013. The Project implementing agency is the United Nations Development Programme (UNDP) in partnership with IOC of UNESCO and the executing agency is the United Nations Office for Project Services (UNOPS).

<sup>52</sup> Available at [http://iwlearn.net/iw-projects/Fsp\\_11279947037/reports/draft-caribbean-large-marine-ecosystem-regional-transboundary-diagnostic-analysis](http://iwlearn.net/iw-projects/Fsp_11279947037/reports/draft-caribbean-large-marine-ecosystem-regional-transboundary-diagnostic-analysis).

Relevant technical bodies at the regional level are WECAFC and in the case of conch, the Caribbean Fisheries Management Council. However neither have decision-making capacity, leaving it up to countries to follow agreed management procedures or not.

At the sub-regional level the Caribbean Community and Common Market Regional Fisheries Mechanism (CARICOM/CRFM), the Organization of Eastern Caribbean States Environment and Sustainable Development Unit (OECS/ESDU) and the Organization of the Fishing and Aquaculture Sector of the Central American Isthmus/Central American Integration System (OSPESCA/SICA) also have programmes related to the assessment and management of specific resources. The latter organisation in particular has made significant progress in coordinating fisheries management in the Subregion. Some countries have difficulty taking part in these processes to the extent required for successful management.

At the sub-regional levels, some measures are in place for harmonized management of shared resources (e.g. OSPESCA/SICA harmonized management plan for tunas and lobster in Central America; Caribbean Fisheries Management Council management of Atlantic highly migratory species). Large pelagic fisheries are currently served by a working international governance mechanism (ICCAT). However, Caribbean participation in ICCAT is weak, particularly by the small developing States. A problem with ICCAT is that it focuses on large pelagics that range ocean-wide and are important to commercial fleets. Many large pelagic species that are distributed mainly within the WCR and which support small-scale fisheries receive no attention at all. A regional mechanism for their management is needed.

### **2.2.1 Recommended priorities for implementation**

Ideally, WECAFC could serve as a “mechanism for international cooperation” among WECAFC Members, as encouraged by the Agreement. This would be consistent with the terms of the WECAFC statutory mandates to “promote and facilitate harmonizing of relevant national laws and regulations, and compatibility of conservation and management measures“ and to “assist its Members and facilitate, as appropriate and upon their request, the conservation, management and development of transboundary and straddling stocks under their respective national jurisdictions.”

In this regard, it is recommended that members define the role that could be played by WECAFC, taking into account other regional initiatives. In addition, the Members may consider taking measures at national level. It is recommended that the following priorities be considered for implementation of the UN Fish Stocks Agreement:

- a. identify the role(s) WECAFC could play to assist and facilitate implementation. Some options could be to:
  - i. transform WECAFC into a body with a management mandate for relevant fisheries, taking into account UN Fish Stocks Agreement Article 9 on establishment of RFMOs and Article 10 on functions of RFMOs; or

- ii. maintain WECAFC as an Article VI body and agree on priorities for assistance and facilitation in relation to applicable functions set out in the WECAFC Statute and Article 10 of the Agreement, and/or to species, taking into account other regional initiatives;
- b. identify the relevant fish stocks;
- c. ensure that the general principles in Article 5 of the Agreement are implemented in national policy and laws;
- d. ensure application at national level of the precautionary approach described in Article 6 of the Agreement;
- e. ensure that the requirements for compatibility described in Article 7 of the Agreement are implemented;
- f. implement the requirements for duties of and compliance and enforcement by the flag State described in Articles 18 and 19;
- g. adopt laws or regulations empowering national authorities to prohibit landings and transshipments where the fish were taken in IUU fishing activities.
- h. take into account, in identifying actions to implement the Agreement, the availability of assistance to developing States under the Part VII Assistance Fund.

These recommendations are broad-based, in order to capture the key areas in the Agreement that should be implemented. It will also be useful to consider specific aspects of implementation in the context of these recommendations, because in many cases a major overhaul would be needed in areas such as national legislation, licensing requirements and procedures, recordkeeping, reporting, human capacity development and information exchange.

In considering the recommendations, Members are encouraged to take into account the priorities agreed by the Commission since the adoption of the revised Statute in 2006.

### **2.3 FAO Agreement on Port State Measures**

*Twenty-three countries and the EU have signed the Agreement and three have ratified or acceded, being the EU and two additional countries. Of these 5 are WECAFC Members. The Agreement enters into force upon the deposit of the 25<sup>th</sup> instrument of ratification, acceptance, approval or accession.<sup>53</sup>*

International momentum to develop and adopt the binding FAO Agreement in Port State Measures to combat IUU fishing progressed very rapidly. Port State measures were increasingly recognized by the international community as powerful and cost-effective compliance tool, and requirements in international fisheries instruments were progressively strengthened, including by the UN Fish Stocks Agreement and the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU). COFI endorsed a voluntary Model Scheme on port State measures at its Twenty-sixth session in 2005. Within four months, international calls for a binding agreement to be developed by FAO began to crescendo in a number of fora, such as the UN Informal Consultative Process on Ocean Affairs and the Law of the Sea (ICP) and UNGA Resolutions.

In 2007, COFI set a timetable for the finalization of the text of the Agreement, involving an Expert Consultation and a Technical Consultation that met over four sessions. COFI emphasized

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<sup>53</sup> As at 1 September 2011.

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that the new instrument would represent minimum standards for port States with the flexibility to adopt more stringent measures. The Port State Measures Agreement was approved by FAO Conference and open for signature in November, 2009.

All fish caught at sea have to be landed somewhere. Port state measures are vital for fisheries management and MCS because they control the first landing of fish, including transshipment. The objective of the Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. It generally applies to foreign fishing vessels.

The benefits include harmonized minimum standards at global and regional levels. These standards, when implemented, have the potential of being one of the most forceful and least dangerous compliance tools available for combating IUU fishing, and are certainly among the most cost-effective. It can mean economic hardship and criminal proceedings for vessel operators, and can result in the scrapping of IUU vessels.

Port State measures also enhance cooperation among the flag States, coastal States and RFMOs on enforcement and deterrence. They promote cost-effectiveness and integration with other port State controls over the same vessels.

Those WECAFC Members with ports of call for foreign fishing vessels would clearly benefit from implementing the measures, but the Agreement does not preclude countries from applying the measures to national vessels. Concerning small-scale fisheries, the Agreement excepts vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, providing that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing.

WECAFC Members with ports that do not normally receive foreign fishing vessels, but which are flag States, would have flag State responsibilities under the Agreement, for example to ensure that their vessels cooperate with port State measures and investigate their vessels suspected of IUU fishing.

A number of States, including some WECAFC Members, have port control measures in place for fishing vessels as noted in Figure 6, but they generally need to be strengthened to conform to the minimum requirements of the Port State Measures Agreement, described below. Many RFMOs are strengthening their regional schemes on port State measures to conform to the Agreement, so this makes it doubly important for WECAFC members belonging to such RFMOs to implement these requirements.<sup>54</sup>

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<sup>54</sup> Several RFMOs have port control schemes, but the first scheme adopted by an RFMO that is almost identical to the FAO Port State Measures Agreement entered into force on 1 March 2011: the Indian Ocean Tuna Commission (IOTC) Resolution 10/11 on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

**Figure 6**  
**FAO database on port State measures**

The FAO database on Port State Measures (Port-Lex)<sup>55</sup> provides access to port State measures adopted by States to combat IUU fishing. The main objective of the database is to make information available to policy-makers, national administrations, legal practitioners and civil society members worldwide. By making available "best practices", the database will contribute to national capacity-building toward adoption and implementation of port State measures to fight against IUU fishing, and help countries and RFMOs coordinate their efforts when adopting and implementing port State measures.

Information from eight WECAFC Members is included in the database.<sup>56</sup>

The FAO Port State Measures Agreement takes a step-by-step approach to port entry, use of port, inspection and information exchange, and its framework covers the following areas.

**Part 1: General Provisions.** This Part is based on general international law and practice. It lays the groundwork for the Agreement and includes the objective, the definition of terms used in the Agreement and the vessels, activities and places to which it applies.

**Parts 2 to 4: Entry into port, use of ports, inspections and follow-up actions.** These Parts provide logical, step-by-step requirements and procedures for vessels and port States. They begin with the time before a vessel enters into port prior, then apply to entry into port, the use of ports, inspections and follow-up actions by the port State.

**Parts 5 and 6: Role of flag States, requirements of developing States.** These Parts describe important complementary actions that can serve to broaden and strengthen the implementation of port State measures. The role of flag States is elaborated and the establishment of mechanisms to meet the requirements of developing States is addressed. Terms of reference for an ad hoc working group to periodically report and make recommendations to the Parties on the establishment of funding mechanisms are being developed.

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<sup>55</sup> Available at <http://www.fao.org/fishery/psm/collection/en>.

<sup>56</sup> Canada, Costa Rica, European Union, Guatemala, Mexico, Panama, USA, Venezuela.

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The Agreement also contains, in Parts 7 to 10, standard types of provisions found in international instruments relating to dispute settlement, non-parties, monitoring and review and final provisions. A brief description of the main features of the Port State Measures Agreement appears below.

**Application.** The Agreement applies to the following areas, activities and vessels.

- Areas: all marine areas - areas within the jurisdiction of the port State and other coastal States and the high seas.
- Activities: IUU fishing and fishing related activities in support of such fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea.
- Vessels: “any vessel, ship of another type of boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities”, which include fishing vessels, reefers, carrier vessels, supply vessels and others.

**Controls port entry.** Prior to entry, vessels must request port entry and provide the information required in Annex A of the Agreement. Entry may be either denied or authorized by the port State. Entry must be denied where there is sufficient proof of IUU fishing, except that in such cases entry may be authorized exclusively for purposes of inspection and taking other appropriate actions. If denied entry, the vessel may then go from port to port to land its fish resulting in a substantial loss of profits. It would also risk being placed on an RFMO IUU vessel list. If entry is authorized, the vessel or its representative must present the authorization when it enters port.

**Controls the use of port.** This is based on the port State’s sovereignty over its port. Denial of the use of port and port includes “landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, inter alia, refuelling and resupplying, maintenance and drydocking.”

**Requires denial of the use of port.** With some exceptions, including force majeure and the safety or health of the crew or the safety of a vessel, the use of the port must be denied on two occasions in specified circumstances: after entry into port but prior to inspection and after inspection.

Reasons for denial of the use of port prior to inspection include the following.

- The vessel does not hold an authorization as required by its flag State or by a coastal State in respect of areas under its national jurisdiction.
- There is clear evidence that fish was taken contrary to coastal State requirements in respect of areas under its national jurisdiction.
- The flag State does not confirm, on request, within a reasonable time that the fish was taken in accordance with RFMO requirements.

Following inspection, the use of port must be denied where there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing.

**Permits the port State to take other measures.** The Agreement does not prevent a party from taking other measures consistent with international law. For example, the port State may prohibit any person to provide port use or services to a vessel that has been denied such use or services. A port State may also prohibit the sale, trade, purchase, export and import of IUU caught fish. The port State may also take measures which the flag State has expressly requested or to which it has consented.

**Sets standards and procedures for inspection.** Minimum standards are required for inspection procedures and the contents of the reports describing the results of the inspection. This will ensure that the results contain all the necessary information and can be easily understood and used by all concerned, including other States and RFMOs. The Agreement also contains training guidelines for inspectors.

**Requires notification, information exchange.** Prompt notification of key decisions, such as denial of entry or use of port, must be given to the flag State and, as appropriate, relevant coastal States, RFMOs and other international organizations.

**Interagency integration and information systems.** Integration of port State measures for fishing vessels with existing port control measures for merchant vessels and other fisheries compliance tools, described below, will enhance the overall operation of port control measures and fisheries enforcement. The Agreement requires integration and coordination in the broader system of port State controls and with other measures to combat IUU fishing. The need for databases and exchange of information at agreed standards is clear.

Many WECAFC Members have been cooperating for many years on port controls for merchant vessels under other international instruments. Developed through the International Maritime Organization (IMO), the 1982 Paris Memorandum of Understanding on Port State Control (Paris MOU) established a coordinated control system with respect to vessel safety and pollution prevention standards and equipment to eliminate the operation of sub-standard ships through a harmonized system of port State control.<sup>57</sup> In addition, there are nine regional MOUs on Port State Control promoted by IMO concerning Regional Cooperation in the Control of Ships and their Discharges, including one operating in the Caribbean region.<sup>58</sup> The regional port State regimes incorporate universal standards and were inspired by the contribution to maritime safety and marine pollution prevention procedures agreed under the Paris MOU.<sup>59</sup>

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<sup>57</sup> Annually, over 24,000 inspections take place on board foreign ships in the Paris MOU ports, ensuring that these ships meet international safety, security and environmental standards, and that crew members have adequate living and working conditions. It is implemented by 27 maritime administrations and covers the waters of the European coastal States and the North Atlantic basin from North America to Europe. Its provisions include targeting of ships for inspection, databases, inspection, officers and detention. An inspection database is maintained. See <http://www.parismou.org>.

<sup>58</sup> See <http://caribbeanmou.org/links.php>.

<sup>59</sup> Many of the IMO technical conventions contain provisions for ships to be inspected when they visit foreign ports to ensure that they meet IMO requirements. See

[www.imo.org/OurWork/Safety/Implementation/Pages/PortStateControl.aspx](http://www.imo.org/OurWork/Safety/Implementation/Pages/PortStateControl.aspx)

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Port State measures form an important part of a web of compliance tools that is strengthened as linkages are forged. As port State measures are implemented, it will be necessary to address the best way to link with these other tools. Some of the important linkages are also addressed in other international fisheries instruments and include:

- **Flag State responsibility.** Port States can strengthen linkages by working with flag States directly and through RFMOs under the Agreement where there are reasonable grounds to suspect IUU fishing. The flag States investigate their vessels when requested by port States, take enforcement action and notify relevant States and RFMOs. Under the Agreement, flag States must also encourage their vessels to land fish in States that act in accordance with the Agreement.
- **Documentation.** All documentation is key to the detection of IUU fishing, including the required reports made by vessels to the port State and information acquired during inspection. This would include catch reports, documentation for trade certification and traceability and information required prior to entry.
- **Information systems.** The Agreement requires notification of certain actions by the port State to a range of others, including the flag State, relevant coastal States, RFMOs and relevant international organizations. It also requires Parties to establish a communication mechanism that allows for direct electronic exchange of information.
- **Vessel monitoring systems.** VMS data and information are useful to port inspectors in assessing whether IUU fishing or related activities had taken place.
- **Observer programmes** at national and regional levels complement VMS and contribute to compliance information for use in taking port State measures.

It is widely recognized that human capacity development is critical to the implementation of the Port State Measures Agreement. In this regard, FAO delivered the first phase of a comprehensive training programme as the Agreement was being developed, taking into account regional fisheries needs and differences.

The objective was to develop national capacity and promote regional coordination so that countries would be better placed to strengthen and harmonize port State measures and, as a result, implement the relevant IPOA-IUU tools and the FAO Model Scheme and contribute to the development of a legally-binding instrument on port State measures.

The second phase, currently under development, will focus on implementing the Agreement. In addition, there has been a human capacity development initiative underway in the Indian Ocean region to support the implementation of the IOTC Resolution on port State measures, which is almost identical to the Agreement.<sup>60</sup>

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<sup>60</sup> The project is titled “Strengthening implementation of the IOTC Port State Measures Resolution through assessment and training in five countries: Mauritius, Mozambique, Seychelles, Tanzania and Kenya”. Funded by EU ACP Fish-II, Project number: CU/PE1/UG/10/008.



In the Latin American region, the Comisión Permanente del Pacífico Sur (CPPS) is holding three workshops in October, 2011 on Meeting the Challenges to Implement the Agreement on Port State Measures with the objective of facilitating the adoption of national measures towards the ratification of the Agreement. They are scheduled to be held in Lima, Peru, Quito, Ecuador and Bogotá, Colombia.

### **2.3.1 Recommended priorities for implementation**

The role of RFBs in implementing the Port State Measures Agreement varies depending upon their respective mandate and the type of fisheries carried out within their Area of Competence. As appropriate, an RFB could serve as a hub for information exchange under the Agreement. In this regard, it is recommended that members define the role, if any, that could be played by WECAFC, mindful that WECAFC has an advisory mandate and several WECAFC Members focus on small-scale national fisheries and do not have ports used to any great extent by foreign fishing vessels.

In addition, Members with ports used by foreign fishing vessels or with distant water fishing fleets may consider taking measures at national level. It is recommended that the following priorities be considered for implementation of the Port State Measures Agreement.

- a. identify the role(s) WECAFC could play, if any, to assist and facilitate implementation, such as serving as the hub for information exchange.
- b. identify the major ports of call for foreign fishing vessels in the WECAFC region;
- c. accept, accede to or approve the Agreement on Port State Measures;
- d. adopt the requirements and minimum standards in the Agreement in national laws, regulations and procedures;
- e. integrate port State measures in the broader system of port State controls and with other measures to combat IUU fishing;
- f. establish information systems and databases;
- g. develop the necessary human capacity to implement the various aspects of port State measures, particularly in the fields of fisheries management, law, MCS and data/information;
- h. after entry into force of the Agreement take into account, in identifying actions to implement the Agreement, the availability of assistance to developing States under the funding mechanisms for developing States.

## **2.4 2003 FAO Technical Guidelines on the ecosystem approach to fisheries**

The 2003 FAO Technical Guidelines on the ecosystem approach to fisheries were produced to supplement the FAO Code of Conduct for Responsible Fisheries.<sup>61</sup> They note that the Code and many international agreements and conferences highlight the many benefits that can be achieved by adopting an EAF and elaborate a number of agreed principles and concepts relating to EAF.<sup>62</sup>

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<sup>61</sup> They were appended as a Supplement to the FAO Technical Guidelines on Responsible Fisheries.

<sup>62</sup> Annex 1 of the EAF Guidelines, "Institutional foundation to the ecosystem approach to fisheries", details the instruments and institutions that contributed to and reinforced the development of the EAF.

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The EAF Guidelines explain that, although the concepts underpinning the EAF were not new, there had been little experience in attempting to implement them. They elaborate the benefits of the EAF and provide practical guidelines for making the operational changes necessary for an ecosystem approach to marine capture fisheries. The purpose and definition of an EAF are presented in the Guidelines.

*The purpose of an ecosystem approach to fisheries is to plan, develop and manage fisheries in a manner that addresses the multiple needs and desires of societies, without jeopardizing the options for future generations to benefit from the full range of goods and services provided by marine ecosystem.*

*From this purpose, the definition of EAF follows. An ecosystem approach to fisheries strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.*

The focus of the EAF Guidelines is on fisheries management, with some coverage of research, integration of fisheries into coastal area management and special requirements of developing countries. The need to prevent pollution from fishing activities and the impact of polluters on fishing is also included, but was not fully elaborated.

They are not seen as a replacement for, but rather an extension of, current fisheries management practices that need to be broadened to take into account the components of ecosystems in which fisheries operate.

The EAF addresses a number of concepts, or principles, for fisheries management that have been expressed in other instruments as follows:

- fisheries should be managed to limit their impact on the ecosystem to the extent possible;
- ecological relationships between harvested, dependent and associated species should be maintained;
- management measures should be compatible across the entire distribution of the resource (across jurisdictions and management plans);
- the precautionary approach should be applied because the knowledge on ecosystems is incomplete; and
- governance should ensure both human and ecosystem well-being and equity.

Annex 2 of the Guidelines elaborates some principles relevant to an EAF. The guidelines are avoiding overfishing, ensuring reversibility and rebuilding, minimizing fisheries impact, considering species interactions, ensuring compatibility, applying the precautionary approach, improving human well-being and equity, allocating user rights, promoting sectoral integration, broadening stakeholder participation and maintaining ecosystem integrity.

To make EAF operational, the Guidelines encourage the following steps for translating policy into action:

- identify broad objectives relevant to the fishery (or area) in question;
- further break these objectives down into smaller priority issues and subissues that can be addressed by management measures;
- set operational objectives;
- develop indicators and reference points;
- develop decision rules on how the management measures are to be applied; and
- monitor and evaluate performance.

Many environmental resources are complex and multifunctional, and it is not obvious how the goods and services provided by these resources affect human welfare. Various benefits of fisheries resources and their ecosystems can be measured and compared through economic valuation, and the Guidelines explain the approaches, elements and challenges of economic valuation in Annex 3.

A recent snapshot of the international implementation of the Guidelines and the EAF itself is given by the 2010 Report of the UN Secretary-General to the Resumed Review Conference of the UN Fish Stocks Agreement,<sup>63</sup> shown in Figure 7. The report was based on responses to questionnaires sent to UN Members and RFMOs.

### Figure 7

#### Report of the Secretary-General to the UN Fish Stocks Agreement Resumed Review Conference

Most States reported support for, or adoption of, ecosystem approaches through a wide range of mechanisms,<sup>64</sup> and many also referred to the FAO Technical Guidelines on the ecosystem approach to fisheries, including for regional fisheries management organizations and arrangements, and to the FAO Deep-sea Guidelines.

A number of States also described actions to implement ecosystem approaches in species-specific management plans, including reduction of incidental catch by the implementation of FAO international plans of action on sharks and seabirds and the FAO guidelines to reduce turtle mortality, as well as other means. Guatemala created artificial reefs to establish protection and conservation areas for certain species and identified funding to promote capture of certain species and reduce fishing efforts for highly migratory and straddling fish stocks.

COFI, at its Twenty-ninth Session, encouraged Members to apply widely the ecosystem approach to fisheries (EAF) and aquaculture (EAA) and the precautionary approach. The Committee reaffirmed the relevance of the EAF and ecosystem approach to aquaculture and endorsed the

<sup>63</sup> A/CONF.210/2010/1, para. 96. Available at [http://www.un.org/depts/los/convention\\_agreements/review\\_conf\\_fish\\_stocks.htm](http://www.un.org/depts/los/convention_agreements/review_conf_fish_stocks.htm).

<sup>64</sup> WECAFC Members reporting support or adoption of EAF were Canada, European Union, Japan, Panama, United States and Venezuela (Bolivarian Republic of).

approach as the appropriate framework to assist with improved integration of fisheries and aquaculture development and management, biodiversity conservation and environmental protection. Furthermore, some specific activities relevant to biodiversity conservation were highlighted, including:

- establishing MPAs, including MPA networks;
- carrying out restocking programmes to support depleted populations of wild stocks;
- identification and protection of fish refugia;
- carrying out impact assessments; and
- continuing action to implement the FAO guidelines on deep sea fisheries.

The Committee took note of the needs of developing countries in relation to the necessity to strengthen their technical capacities in order to ensure a better implementation of the working framework deriving from the EAF and EAA.

WECAFC has generally endorsed the EAF, and has cooperated in sub-regional and regional ecosystem-based projects, described below. More specifically, the Third Meeting of the *ad hoc* Flyingfish Working Group held in 2008<sup>65</sup> referred to the strong justification for an ecosystem-based approach to the management of eastern Caribbean pelagic fisheries based on the significant trophic, technical and economic linkages between the flyingfish fisheries and the fisheries targeting large oceanic pelagic species (e.g. dolphinfish, wahoo, tunas, billfishes).

WECAFC participated in the 2002 – 2007 sub-regional ecosystem based project, the “Scientific Basis for Ecosystem-Based Management in the Lesser Antilles including Interactions with Marine Mammals and other Top Predators” or Lesser Antilles Pelagic Ecosystem project (LAPE)<sup>66</sup> and the CLME Project. The LAPE project is of particular relevance to transboundary living resources in that it focused on an ecosystem approach to management of pelagic fisheries, particularly the large migratory pelagics.<sup>67</sup>

On a regional level, WECAFC has consistently expressed its support to the CLME Project. It is based on the FAO EAF Guidelines and is described below. The Commission agreed to collaborate with the Project at its Eleventh Session, and at the Twelfth Session endorsed the recommendations of SAG that WECAFC should participate actively in the PDF-B (development) stage of the CLME project and the subsequent implementation of the whole project as well as encourage the CLME project to use and reinforce the existing WECAFC Working Groups. At its Thirteenth Session, the Commission urged member countries to contribute to and cooperate very closely with the CLME to ensure that high priority issues related to fisheries in the region were adequately addressed, especially at the ecosystem level.

CLME has adopted FAO's framework for EAF. Its objectives are to:

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<sup>65</sup> Report of the Third Meeting of the WECAFC Ad Hoc Flyingfish Working Group of the Eastern Caribbean. Mount Irvine, Tobago, 21–25 July 2008. *FAO Fisheries and Aquaculture Report*. No. 929. Rome, FAO. 2010. 88p.

<sup>66</sup> The project was funded by the Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries, Government of Japan. Information is available at <http://www.fao.org/fishery/eaf-lape/en>.

<sup>67</sup> The project aimed to consider three biological and technical interactions between the three characteristics of the pelagic resources: the fisheries targeting them were expanding, the stocks showed widespread distribution throughout the region and beyond and there were significant biological and technological interactions between them.

- identify, analyse and agree upon major issues, root causes and action required to achieve sustainable management of the shared living marine resources in the Caribbean LME and its adjacent regions;
- improve the shared knowledge base for sustainable use and management of transboundary living marine resources;
- implement legal, policy and institutional (SAP) reforms to achieve sustainable transboundary living marine resource management;
- develop an institutional and procedural approach to LME level monitoring, evaluation and reporting.

Potential roles for WECAFC are included in Table 4 of the 2011 CLME draft TDA.<sup>68</sup> They include (emphasis added): potential for co-financing; implementation of necessary institutional, legal and policy governance reforms at the national and regional levels; CLME project promotion, specifically with respect to advancing the achievement of the components of the project; building crosssectoral linkages and partnerships among advisory and decision-making bodies at the national, sub-regional and regional levels; *encouraging increased ratification and implementation of relevant international agreements*; public education, outreach, disseminate and share project results, best practices and lessons learnt; capacity building for and implementation of management measures and legal, policy and regulatory reforms. In addition, there would be a role for WECAFC to participate in developing and implement pilot projects (flyingfish, reef fisheries, lobster, shrimp and ground fish)

The FAO Fisheries and Aquaculture Department has recently become involved in a few projects/activities aimed at facilitating implementation of EAF in the region, based on these it is expected that priorities for specific guidance will emerge, such as institutional analysis, stakeholder analysis and carrying out assessments in data-poor situations. The projects involve case studies under the CLME Project on shrimp and groundfish fisheries management under the EAF<sup>69</sup> and to contribute to an OSPESCA study on lobster fisheries. FAO will also be focusing on the application of the EAF/EAA in shrimp fisheries and aquaculture in Central America.

As shown in Figure 8, fisheries are dependent upon the ecosystems in which they occur, and within the WECAFC region considerations extend, inter alia, to habitat and climate change.

### Figure 8

#### Some elements of ecosystems in the WECAFC region on which fisheries resources depend

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<sup>68</sup> The draft TDA was described in Part 2.2 above. A Transboundary Diagnostic Analysis is a widely-used tool within GEF International Waters Projects to provide a scientifically objective assessment of the causes of the main problems affecting transboundary and shared systems. Table 4 shows selected key institutional players in the CLME project area at the local, national, sub-regional/regional and international levels identified in the PDF-B phase of the project based on their potential role in CLME Project activities.

<sup>69</sup> This will be limited to the six countries of the Caribbean participating in the project. The objective of this CMLE Project is to carry out an integrated assessment of the shrimp and groundfish fisheries of the Brazil-Guianas shelf including ecological, socio-economic and governance aspects of these fisheries, as well as of external drivers that impact these fisheries (e.g. climate change and impacts from other sectors). These assessments will be carried out in relation to sustainability objectives as reflected in countries policies and be supported by specific studies. Furthermore, they will be carried out through stakeholder workshops at the national and regional levels.

An ecosystem approach to fisheries recognizes that fisheries resources are dependent on the ecosystems in which they occur. Within the WECAFC region, many ecosystems are undergoing adverse impacts from human activities, and damage to critical habitats is one such concern. Important habitats found in the Caribbean include coral reefs, seagrass beds, mangroves, coastal lagoons, sandy beaches and mud bottom environments. Coral reefs are a cause of widespread concern and are important habitats for many exploited fishery resources.

WECAFC, at its Thirteenth Session, agreed that implementation of an ecosystem approach to fisheries was an important mechanism for maximising the resilience of marine ecosystems to climate change.

The framework of the six chapters of the EAF Guidelines is shown below.

**1. Introduction.** Various aspects of an EAF, as noted above, are described, including the need, benefits, definition, principles and operationalization. The limitations of current fisheries management practice are described and requirements to fully implement EAF are elaborated. Elements include the fisheries management process, biological and environmental concepts and constraints, technological considerations, social and economic dimensions, institutional concepts and functions, time scales, precautionary approach and special requirements of developing countries.

**2. Ecosystem approach to fisheries data and information requirements and use.** Data and information underpin all stages in the EAF management process including formulating policy, developing management plans, and evaluating progress and updating policy and plans to provide for continuous improvement. This Part shows where EAF will require a broadening of data, analysis and information provision, and addresses policy formulation, developing management plans, monitoring, implementing and performance reviews and uncertainty and the role of research.

**3. Management measures and approaches.** The Guidelines acknowledge that the measures available for EAF will, at least in the short term, be an extension of those conventionally used in target resource-oriented management. Four options to manage fishing are addressed (technical measures, input (effort) and output (catch) control, ecosystem manipulation and rights-based management approaches), as well as creating incentives for EAF, assessing costs and benefits and other considerations, which fall outside the direct control of fisheries managers.

**4. Management processes.** Three major management processes are outlined, the most extensive being the process to develop an EAF management plan. It includes guidelines on consultation, defining the scope of a management plan, compiling and analysing background information, setting objectives and formulating rules. Other processes involve the legal and institutional aspects, including educating/informing stakeholders and establishing an effective administrative structure, as well as effective MCS.

**5. Research for an improved EAF.** The Guidelines note that the processes in Chapter 4, if carried out successfully, will highlight areas of uncertainty and show where further research is needed. More importantly, it will identify the priority needs for the fishery and assist in guiding research. Some relevant areas of research that would lead to improved ability to implement the EAF are described, in no order of priority, as follows: ecosystems and fishery impact assessments; socio-economic considerations; assessment of management measures; assessment and improving the management process; and monitoring and assessments.

**6. Threats to implementing EAF.** Key impediments to the effective implementation are identified, and possible means of overcoming them suggested. Some obstacles are the mismatch between expectations and resources, reconciling competing objectives of multiple stakeholders, insufficient or ineffective stakeholder participation in the development of EAF, time and cost for stakeholder consultations, insufficient knowledge, lack of capacity for compilation and analysis of available information, insufficient education and awareness, equity issues in relation to responsibility for ecosystem degradation, aligning the ecosystem boundaries and the management authorities' jurisdiction, illegal stakeholder behaviour and poverty.

The CLME Project provides a focused platform for implementation of the EAF Guidelines. The TDA, which will serve as a basis for an agreed program of interventions within the CLME Strategic Action Programme, was developed to be consistent with FAO's Ecosystem Approach to Fisheries.

The TDA is anchored in three agreed key transboundary issues: unsustainable fisheries, habitat degradation and pollution. They have been analysed with specific reference to each of the three fisheries ecosystems identified in the project— reef, pelagic and continental shelf. This represented a shift in focus from three geographical sub-regions (Insular Caribbean, Central/South America and Guianas/Brazil).

The TDA stated that the reorientation towards fishery ecosystems represented a significant and innovative advance for the CLME Project. Most coastal and marine fisheries in the WCR take place in one of these three ecosystem types. These ecosystems are also the basis for a variety of other non-fishing activities such as recreation, tourism and transportation.

The three ecosystems will form the basis for specific management plans and interventions of the CLME Project, including fisheries management reforms, conservation measures and pollution control.

The development of the CLME Project's Strategic Action Programme will be based on the underlying and immediate causes identified by the three fisheries ecosystem TDAs and governance analysis reports.

#### **2.4.1 Recommended priorities for implementation**

As noted in Part 1, the General Principles of the WECAFC Statute refer to promoting the application of the ecosystem approach to fisheries management, and the Commission's functions include promoting, organizing or undertaking research including on the interaction between fisheries and the ecosystem and to design programmes required for this purpose.

The draft CLME TDA recognizes that regional and sub-regional organizations such as the FAO/WECAFC and CRFM have been actively promoting fisheries management and development related to the continental shelf fisheries ecosystem. It suggests that, as they seek to address the key

transboundary living marine resource issues for this ecosystem, the countries may need to strengthen and/or develop mechanisms for subregional collaboration and cooperation in areas such as assessment and management; harmonization of legislation; development of a subregional database for fisheries and related data; establishment of mechanisms for strengthening MCS at the national and sub-regional levels; stakeholders' involvement in the management process; and building public awareness.

It is recommended that the following priorities be considered for implementation of the EAF Technical Guidelines:

- a. as appropriate, identify a role for WECAFC in implementing EAF, such as applying the approach in ad hoc Working Groups or supporting proposed FAO projects and the CLME Project;
- b. cooperate through, and strengthen as appropriate, subregional and regional initiatives;
- c. promote the application of EAF in national policy and legislation;
- d. promote the harmonization of national policy and legislation with approaches and measures adopted at subregional and regional levels;
- e. strengthen human and institutional capacity for the development and implementation of an EAF;
- f. contribute to research and information collection and analysis on subregional and regional levels;
- g. contribute to the development and implementation of EAF management plans at all levels;
- h. encourage stakeholders' involvement in the management process;
- i. cooperate with organizations, projects and others at all levels to build public awareness.

## **2.5 2008 FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas**

Deep-sea fisheries in the high seas are generally considered to be those occurring in areas beyond national jurisdiction and conducted using fishing gears that either contact or are likely to contact the sea floor during the course of the fishing operations. These fisheries typically target demersal and benthic species. Many, but not all, of the species targeted or incidentally caught in these fisheries are long-lived, slow growing or late maturing species that can sustain only low exploitation rates. Fishing depth has not been considered as a primary criterion, although most of the fisheries

are conducted at depths below 200 metres, on continental slopes or isolated oceanic topographic structures such as seamounts, ridge systems and banks.<sup>70</sup>

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<sup>70</sup> This is described as the scope of the FAO Worldwide Review of Bottom Fisheries in the High Seas, described and referenced below.



The International Council for the Exploration of the Seas reports that deep-sea fisheries tend to deplete the whole fish community biomass because a large proportion of deep-water trawl catches (upwards of 50%) can consist of unpalatable species and numerous small species, including juveniles of the target species, which are usually discarded. The survival of these discards is unknown, but believed to be virtually zero due to fragility of these species and the effects of pressure changes during retrieval.<sup>71</sup>

Additional concerns include physical contact by fishing gear with organisms that are not caught, and

the effects of trawling, indirect processes and alteration of the sea bottom on associated species and their habitat.

Information on deep-sea fisheries in the Caribbean is generally scarce and urgently needs to be collected and assessed in order that a precautionary approach can be taken towards the management of the fragile species, habitat and ecosystems. Figure 9 describes deep-sea corals in the region that are susceptible to destructive bottom trawling practices.

**Figure 9**  
**Some deep-sea fisheries resources in the Caribbean Sea**

The Caribbean Sea includes large expanses of deep water reefs and rocky outcrops that harbour a wide variety of deep-sea corals and commercially important fish species. Two of the more significant deep-sea coral species are *Lophelia pertusa* and *Oculina varicosa*, which form extensive deep-water communities that harbour commercially important fish species, making them susceptible to destructive bottom trawling practices. The unique and vulnerable deepwater coral (*Oculina*) habitats off the southeastern USA have been identified as essential fish habitat for Federally managed species in the USA<sup>72</sup>

Concerned about the potential harmful impacts of destructive fishing practices, the UNGA adopted a series of resolutions, beginning with UN Resolution 59/25 in 2004, which have, *inter alia*, called on high seas fishing nations and RFMOs to take urgent action to protect vulnerable marine ecosystems (VMEs) from destructive fishing practices, including bottom trawl fishing, in areas beyond national jurisdiction.<sup>73</sup>

<sup>71</sup> Report of the Working Group on the Biology and Assessment of Deep-Sea Fisheries Resources (WGDEEP). 3—10 March 2008. Copenhagen, ICES Headquarters. ICES CM 2008/ACOM:14. 531 pp. Pages 70-71.

<sup>72</sup> CLME Project. Draft Regional Transboundary Diagnostic Analysis. May, 2011. As discussed below, the project includes consideration of the continental shelf ecosystem but does not take into consideration deep-sea ecosystems.

<sup>73</sup> Paragraph 66 of the Sustainable Fisheries Resolution called 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 that 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.”

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The vulnerability of an ecosystem is related to the likelihood that one or more components<sup>74</sup> will experience substantial alteration due to short-term or chronic disturbance, the likelihood that it will recover and if so, in what time frame. The most vulnerable ecosystems are those that are both easily disturbed and very slow to recover, or may never recover. Within ecosystems, seamounts, hydrothermal vents and cold-water corals may be regarded as ecotopes, which are expected to

occur as numerous, small patches, scattered among areas of larger ecosystems.

A 2006 report by the UN Secretary-General on progress on the implementation of the 2004 Resolution concluded that little action had been taken to protect deep-sea ecosystems on the high seas from the adverse impacts of bottom fisheries despite the fact that "deep-sea habitats in these areas are extremely vulnerable and require protection."

As a result of a review by the UNGA in 2006, and calls by a number of countries including Brazil, Palau and other Pacific Island countries, the UNGA adopted a 'compromise' offered by nations whose vessels deep-sea fish on the high seas through UNGA Resolution 61/105. It committed nations that authorize their vessels to engage in bottom fisheries on the high seas to take a series of actions, outlined in Paragraph 83 of the Resolution. The main action points are summarised below.

- Conduct impact assessments to determine whether bottom fishing activities would have significant adverse impacts on VMEs.
- Ensure that, if fishing activities have significant adverse impacts, they are managed to prevent such impacts, or else prohibited.
- Close areas of the high seas to bottom fishing where VMEs such as cold-water corals are known or likely to occur, unless fishing in these areas can be managed to prevent significant adverse impacts to such ecosystems.
- Establish and implement protocols to require vessels to cease fishing in areas where an encounter with VMEs occurs during fishing activities.
- Sustainably manage the exploitation of deep-sea fish stocks.
- Implement these measures, in accordance with the precautionary approach, ecosystem approach and international law, by no later than December 31 2008.

In 2007, COFI requested the development of voluntary International Guidelines for the Management of Deep-sea Fisheries in the High Seas in order to assist States and RFMO/As in sustainably managing deep-sea fisheries and in implementing the UNGA Resolution 61/105, paragraphs 76-95, concerning responsible fisheries in the marine ecosystem. COFI also agreed that the Guidelines "should include standards and criteria for identifying vulnerable marine ecosystems in areas beyond national jurisdiction and identify the potential impacts of fishing activities on such ecosystems, in order to facilitate the adoption and the implementation of conservation and management measures by RFMO/As and flag States (pursuant to paragraphs 83 to 86 of the Resolution)".

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<sup>74</sup> i.e., population, community or habitat.

The Guidelines,<sup>75</sup> adopted in August 2008, are directed at fisheries exploiting deep-sea fish stocks, in a targeted or incidental manner, in areas beyond national jurisdiction, including fisheries with the potential to have significant adverse impacts on VMEs. The stated role of the Guidelines is “to provide tools, including guidance on their application, to facilitate and encourage the efforts of States and RFMO/As towards sustainable use of marine living resources exploited by deep-sea fisheries, the prevention of significant adverse impacts on deep-sea VMEs and the protection of marine biodiversity that these ecosystems contain.

The Guidelines, which build upon provisions in the 1982 Convention, are designed to provide guidance for States and RFMO/As in formulating and implementing management measures for deep-sea fisheries in the high seas. They elaborate management factors ranging from an appropriate regulatory framework to the components of a good data collection programme. They also identify key management considerations and measures necessary to ensure the conservation of target and non-target species, as well as affected habitats.

The Guidelines were developed for fisheries that are beyond national jurisdiction and have the following characteristics: “the total catch (everything brought up by the gear) includes species that can only sustain low exploitation rates; and the fishing gear is likely to contact the seafloor during the normal course of operations”.

The framework of the Guidelines is shown below.

**Part 1: Preamble.** Refers to the process to develop the Guidelines and their role, as described above.

**Part 2: Scope and principles.** Although the Guidelines were developed for fisheries beyond national jurisdiction, coastal States may apply the Guidelines within their national jurisdiction. The main objectives of the management of deep-sea fisheries are to promote responsible fisheries that provide economic opportunities while ensuring the conservation of marine living resources and the protection of marine biodiversity, by ensuring the long-term conservation and sustainable use of marine living resources in the deep seas; and ii. preventing significant adverse impacts on VMEs.

**Part 3: Description of key concepts.** The following concepts are described: characteristics of species exploited by deep-sea fisheries; vulnerable marine ecosystems; and significant adverse impacts.

**Part 4: Governance and management.** Management considerations are described; management should be consistent with the Code of Conduct and the general principles in the UN Fish Stocks Agreement, and consist of specific actions and measures. A governance framework, which applies to States and RFMO/As, *inter alia* calls for the strengthening of existing RFMO/As and where none exists to “urgently cooperate to establish new RFMO/As, where necessary and appropriate, with the competence to manage and regulate deep-sea fisheries and their impacts on VMEs.

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<sup>75</sup> <http://www.fao.org/docrep/011/i0816t/i0816t00.htm>.

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**Part 5: Management and conservation steps.** A range of steps is provided in this Part, consisting of: Data, reporting and assessment; identifying vulnerable marine ecosystems and assessing significant adverse impacts; enforcement and compliance; management and conservation tools; and assessment and review of effectiveness of measures

**Part 6: Special requirements of developing countries.** There is a call for assistance to developing countries, but because the instrument is voluntary a special fund is not established. Specific needs of developing countries are identified, including financial and technical assistance, technology transfer, training and scientific cooperation and in enhancing their ability to develop and manage their own deep-sea fisheries, as well as participate in such fisheries, including access to such fisheries.

**Part 7: Additional considerations on implementation.** Collaboration through FAO and support to FAO to develop a global database for VMEs are encouraged. FAO is requested to review the progress made on the implementation of the Guidelines on a biennial basis, based on reports from States and RFMO/As.

**Annex.** Examples of potentially vulnerable species groups, communities and habitats, as well as features that potentially support them are given.

Essentially, the FAO Guidelines encourage standardized and consistent data collection procedures; reports on data from all stages of a fisheries development; socioeconomic data from these fisheries; reports on data at appropriate scale resolution for stock assessments and evaluation of impacts on VMEs; and monitoring as close to real time as possible. Training programs for both scientific observers and fishers are recommended to improve catch identification and biological data collection.

The importance of adaptive management is noted and information necessary for such information requested. The need for international cooperation on collation of biogeographic information is also noted. There is a call for transparent processes when analysing and reporting data from these fisheries to facilitate review of management effectiveness.

In 2009, the UNGA determined that Resolution 61/105 had not been implemented sufficiently. As a result the General Assembly adopted additional provisions in Resolution 64/72. This Resolution reaffirmed the 2006 Resolution and made it clear that the measures called for in Resolution 61/105 should be implemented, consistent with the FAO Guidelines, by flag states and RFMOs prior to allowing, or authorising, bottom fishing on the high seas to proceed.

Resolution 64/72 placed particular emphasis on conducting impact assessments of bottom fisheries on the high seas and called on States and RFMOs to "ensure that vessels do not engage in bottom fishing until such assessments have been carried out". It further called for stock assessments and conservation measures to ensure the long-term sustainability of deep-sea fish stocks, including species impacted by deep-sea fishing which are not of commercial value (non-target or bycatch species), and the rebuilding of depleted fish stocks.

A 2009 FAO publication, the *Worldwide Review of Bottom Fisheries in the High Seas*,<sup>76</sup> based *inter alia* on responses to questionnaires, provides a summary of the current status of high seas bottom fisheries worldwide. Deep sea fisheries in most regions in the world were addressed in terms of fleets, catch and effort, and main species caught, but there was insufficient information in relation to the Western Central Pacific so this region was not included in the publication. The document aimed, *inter alia*, at assisting in the implementation of the FAO Deep-sea Guidelines. Some excerpts are shown in Figure 10.

### Figure 10

#### Worldwide Review of Bottom Fisheries in the High Seas

The *Worldwide Review of Bottom Fisheries in the High Seas* reports that 285 vessels from 27 flag States were operating in 2006, including seven WECAFC Members.<sup>77</sup> The majority of the vessels operating in the bottom fisheries in the high seas were trawlers (mid-water and bottom trawlers), and bottom longliners were the second most common type of vessel in these fisheries.

The review showed that the highest number of vessels operated in the North East Atlantic, the North West Atlantic and the South West Atlantic. The level of vessels operating in other regions described in the review was reported to be considerably lower.<sup>78</sup>

The total global catch of bottom fisheries, based on the total catch of approximately 60 species, on the high seas is estimated to be circa 252 000 tonnes for 2006.

The report focuses primarily on fisheries that target demersal and benthic species, but other fisheries have been included, such as those conducted with deep-sea pelagic gears that may or are likely to have occasional contact with the sea floor; those targeting species mainly distributed in shallow waters, but where bycatch includes deep-sea species; or those with fishing grounds mainly located within national jurisdictions, but potentially overlapping the high seas.

There are no internationally agreed definitions of deep-sea species or clear definitions and categorical distinctions between high, medium and low productivity species.

A FAO Workshop was held in 2010 on the implementation of the Guidelines, to consider challenges and the way forward.<sup>79</sup> It was organized in response to the need to analyse the barriers

<sup>76</sup> Bensch, A.; Gianni, M.; Gréboval, D.; Sanders, J.S.; Hjort, A. *Worldwide review of bottom fisheries in the high seas. FAO Fisheries and Aquaculture Technical Paper*. No. 522, Rev.1. Rome, FAO. 2009. 145p. Available at <http://www.fao.org/docrep/012/i1116e/i1116e00.htm>

<sup>77</sup> Belize, Canada, France, Japan, Republic of Korea, Spain, United Kingdom.

<sup>78</sup> These regions included the North Pacific, South Pacific, South East Atlantic, Southern Ocean and Indian Ocean.

<sup>79</sup> FAO. Report of the FAO Workshop on the Implementation of the International Guidelines for the

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to the implementation of the Guidelines and identified specific programmes of work and activities that will be needed to advance implementation.

It was concluded that the Workshop provided a good opportunity to establish an overall view of implementation and discuss challenges faced. However, given that many states and RFMO/As have only just begun to address many of the provisions in the FAO Deep-sea Guidelines and the UNGA Resolutions for the purpose of their implementation it was suggested that additional meetings to evaluate the challenges and potential solutions in the implementation should be planned for the future. It was considered that additional evaluations of the implementation of the FAO Guidelines could also encourage relevant parties and stakeholders to continue their efforts on implementation.

Participants highlighted the main actions listed below and emphasized prioritizing these actions in order to address major issues in the implementation of the FAO deep-sea Guidelines.

Priority actions to assist states, RFMO/As and the industry in the implementation of the FAO Deep-sea Guidelines are to:

- support the development of RFMO/As where they do not currently exist as well as encourage the signature and ratification of RFMO/As where they are in progress;
- support developing countries in the implementation of the FAO Deep-sea Guidelines, including making best practices and relevant information accessible;
- compile best practices and develop relevant guidance on impacts and risk assessment;
- compile, clarify the use of, and make available best practices on encounter protocols and related mitigation measures, in particular the move-on rule;
- facilitate opportunities for discussions among fishing nations operating in the same area, particularly where no RFMO/A is in place;
- develop guidance on the use of the VME criteria, including triggers for what degree of presence constitutes a “significant concentration”; and
- support and facilitate work on deep-sea high seas stock assessments to ensure sustainable fisheries.

In 2010, UNGA Resolution 65/38 requested the Secretary-General to report to the General Assembly at its Sixty-sixth session on the actions taken by States and RFMO/As in response to the relevant paragraphs in resolutions 61/105 and 64/72, with a view to ensuring effective implementation of the measures and to make further recommendations, where necessary.

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Management of Deep-sea Fisheries in the High Seas – Challenges and Ways Forward, Busan,

Republic of Korea, 10–12 May 2010. *FAO Fisheries and Aquaculture Report*. No. 948. Rome, FAO. 2011. 74p. The report of the Workshop is divided in two parts. Part 1 provides the meeting summary and the main conclusions and recommendations with respect to general considerations, governance, support to developing countries, management issues, compliance and enforcement, VMEs and review and implementation processes. Part 2 contains the background documents on: (i) issues with respect to fisheries management in areas where there are regional fisheries management organizations/arrangements (RFMO/As); (ii) VMEs in areas where there are RFMO/As; and (iii) both topics in areas where there are no RFMO/As.

At the time of writing, a draft Report of the Secretary-General<sup>80</sup> had been made available for consideration by a two-day workshop scheduled in September, 2011 to discuss implementation of paragraphs 80 and 83 to 87 of Resolution 61/105 and paragraphs 113 to 117 and 119 to 127 of Resolution 64/72 on the impacts of bottom fishing on VMEs and the long-term sustainability of deep sea fish stocks.<sup>81</sup>

The draft report provided an overview of the impacts of bottom fisheries on VMS and long-term sustainability of deep-sea fish stocks, and actions taken by States and RFMO/As to address these impacts and to cooperate in collecting and exchanging information scientific and technical and data and information, and to develop or strengthen data collections standards, procedures and protocols and research programmes. It also reported on the activities of the FAO to promote the regulation of bottom fisheries and the protection of VMEs.

The draft Report was based on responses to a questionnaire inviting information to be submitted on actions taken to implement the relevant Resolutions with a view to facilitating a further review. Eight WECAFC Members responded to the questionnaire.<sup>82</sup>

The draft Report concluded that, if fully implemented, resolutions 61/105 and 64/72, as well as the FAO Guidelines, provide the tools necessary to protect VMEs from significant adverse impacts due to bottom fishing and to ensure the long term sustainability of deep sea fish stocks. Key points in the concluding remarks of the Report are shown below.

- New research has highlighted the great diversity in composition and ecological characteristics of VMEs, on the biology of relevant organisms and on the spatial scales of VMEs.
- Compared with global landings from fisheries, deepwater landings are small, but the impacts of deep-sea fishing can be significant. Damage to some VMEs appears to be lasting and recovery will take decades or more. Some major coral reefs have likely been lost forever and the recovery of depleted fish populations will take a long time.
- Substantial progress has been made by States and RFMO/As to implement the relevant paragraphs of General Assembly resolutions 61/105 and 64/72. All RFMOs with competence to regulate bottom fisheries have adopted measures and have taken action to implement the resolutions, but the actions have varied.
- Requirements for impact assessments have been implemented by some RFMO/As<sup>83</sup>, but the requirements vary. In addition, new or revised data collection protocols and reporting procedures have been implemented, the use of scientific observers has increased and VME identification guides have been developed or are in progress. These RFMOs have also established thresholds on bycatch of VME indicator species to indicate encounters

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<sup>80</sup> The draft Secretary-General's Report, available as at 1 September 2011, is at [http://www.un.org/Depts/los/reference\\_files/Draft\\_SG\\_Fisheries\\_Report.pdf](http://www.un.org/Depts/los/reference_files/Draft_SG_Fisheries_Report.pdf).

<sup>81</sup> [http://www.un.org/Depts/los/reference\\_files/workshop\\_fisheries\\_2011.pdf](http://www.un.org/Depts/los/reference_files/workshop_fisheries_2011.pdf).

<sup>82</sup> Submissions were received from a total of 20 States (including WECAFC Members Canada, Colombia, France, Japan, Mexico, the Republic of Korea and the USA) the European Union (EU), 13 RFMO/As and the FAO.

<sup>83</sup> Commission for the Conservation of Antarctic Marine Living Resources, Northwest Atlantic Fisheries Organization, North-east Atlantic Fisheries Commission and the South-east Atlantic Fisheries Organization.

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with potential VMEs, as well as regulations describing actions to be taken by fishing vessels.

- Efforts by States participating in negotiations to establish new RFMOs in the Pacific Ocean have culminated in the adoption of the South Pacific Regional Fisheries Management Organization SPRFMO Convention and the successful conclusion of negotiations for the North Pacific Ocean.
- Many States have adopted measures for areas within and beyond national jurisdiction to complement the measures introduced by RFMOs. Some States have also adopted measures for vessels fishing in areas where there was no RFMO, or interim measures in place.
- Relatively little information was provided on the exchange of procedures, best practices and standards between RFMO/As and States. While there are regional differences, many measures are similar or compatible across several RFMO/As.
- While significant actions have been taken, implementation of the Resolutions continues to be uneven and further efforts are needed. As the experience of States and RFMO/As with adopted measures is ongoing, the basis for a comprehensive evaluation of their effectiveness in regulating fisheries, facilitating recovery and conservation of resources and protecting VMEs is still limited.

These remarks emphasize the clear and pressing global need for the FAO Guidelines and UNGA Resolutions to be implemented at an early time through, *inter alia*, research and information exchange and for RFMO/As to be strengthened or established in areas of the high seas for the management of deep-sea fishing and establishment and management of fisheries in VMEs.

### **2.5.1 Recommended priorities for implementation**

An important common feature of the UNGA Resolutions and the FAO Guidelines is the call for the development of RFMO/As where none exists, and to facilitate opportunities for discussions among fishing nations operating in the same area, particularly where no RFMO/A is in place, as well as to support developing countries.

In the WECAFC region, which has with an extensive high seas area eastwards of zones of national jurisdiction, there is little information available about deep-sea fisheries but there is a clear need to explore the situation, at least by improving existing information and research. WECAFC's mandate currently includes the following relevant responsibilities:

- keep under ongoing review the state of the fishery resources in the area and the related industries and promote the interchange of related information;<sup>84</sup>
- promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the areas of competence of the Commission, including on the

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<sup>84</sup> Article 6(d).



interactions between fisheries and the ecosystem, and design programmes required for this purpose;<sup>85</sup> and

- provide advice on management measures to member governments and competent fisheries organizations.<sup>86</sup>

These responsibilities, and others under the WECAFC mandate, would support action with respect to some of the recommended measures under the UNGA Resolutions and the FAO International Guidelines. However, there is no express focus on deep-sea fishing and no mandate to control such fishing, including for the establishment of, and regulation of fisheries in, VMEs. There is no other RFMO that has a mandate for deep-sea fisheries in the area.

It is recommended that the following priorities be considered for implementation of the FAO Deep Sea Guidelines:

- a. identify the role(s) WECAFC could play, if any, to assist and facilitate implementation of the UNGA Resolutions and the FAO Guidelines, such as to:
  - promote and coordinate research;
  - collect, analyse and disseminate data and information;
  - compile best practices and develop relevant guidance on impacts and risk assessment;
  - compile, clarify the use of, and make available best practices on encounter protocols and related mitigation measures, in particular the move-on rule; and
  - facilitate opportunities for discussions among fishing nations operating in the same area, particularly where no RFMO/A is in place;
- b. as a next step, and in response to calls by the UNGA and the Guidelines, consider transforming WECAFC to an Article XIV body with a management mandate to govern deep-sea fishing in the WECAFC Area;
- c. for Members with vessels that engage in deep-sea fishing in the WECAFC area, ensure implementation of the UNGA Resolutions and FAO Guidelines, and in particular the management and conservation components of the Guidelines;
- d. cooperate, in identifying actions to implement the Guidelines, as appropriate to provide assistance to developing States including making available best practices and relevant information.

## **2.6 2010 FAO International Guidelines on Bycatch Management and Reduction of Discards**

The FAO International Guidelines on Bycatch Management and Reduction of Discards describe the background concerning the development of the Guidelines. The document refers to the Code of Conduct which, *inter alia* promotes the maintenance, safeguarding and conservation of biodiversity of ecosystems by minimizing fisheries impacts on non-target species and the ecosystem in general.

However, concern was growing that levels of fishing mortality as a result of bycatch and discards threaten the long-term sustainability of many fisheries and the maintenance of biodiversity in many areas, resulting in increased food insecurity and adversely affecting the livelihoods of millions of fishers and fishworkers dependent on fish resources.

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<sup>85</sup> Article 6(e).

<sup>86</sup> Article 6(h).

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Calls for action on bycatch and discards were raised at the UNGA, including in Resolution 64/72 on Sustainable Fisheries, which urged States and RFMO/As and other organizations to reduce or eliminate bycatch, catch by lost or abandoned gear, fish discards and post-harvest losses, and to support studies and research that will reduce or eliminate bycatch of juvenile fish.

FAO had undertaken a number of efforts to address these issues, including the development of the:

- 1999 FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds) and its related Best Practices Technical Guidelines;
- 1999 FAO International Plan of Action for the Conservation and Management of Sharks (IPOA-Sharks); and
- 2009 FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.

The Guidelines refer to the FAO report on bycatch and discards at the Twenty-eighth Session of COFI in 2009, which reiterated that in poorly managed fisheries, unreported and unregulated (i) landings of bycatch, (ii) discards and (iii) pre-catch losses were issues of major concern. COFI called for the Guidelines at that Session and after their development by FAO expert and technical consultations, endorsed the Guidelines at its Twenty-ninth Session in 2011.

The Guidelines are to be interpreted and applied in conformity with the relevant rules of international law, as reflected in the 1982 Convention and to be applied to complement bycatch measures addressed in the IPOA-Seabirds and its related Best Practices Technical Guidelines, the IPOA-Sharks and Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.

The scope of these Guidelines is global, covering all fishing activities in all seas, oceans and inland water. Their stated purpose is to assist States and RFMO/As in implementing the Code and an ecosystem approach to fisheries through effective management of bycatch and reduction of discards.

The objective of the Guidelines is to promote responsible fisheries by:

- minimizing the capture and mortality of species and sizes which are not going to be used in a manner that is consistent with the Code;
- providing guidance on measures that contribute towards more effective management of bycatch and reduction of discards; and
- improving reporting and the accounting of all components of the catch of which bycatch and discards are subsets.

Estimates of bycatch and discards are shown in Figure 11. The Guidelines set out the characteristics of bycatch and discards, and note the reasons why it is not possible to develop a

standard international definition of bycatch.<sup>87</sup> Examples of problems associated with bycatch in specific fisheries include catching:

- species and sizes not specifically targeted in a fishery;
- species that are protected, endangered or threatened;
- juvenile fish; and
- organisms for which there is no intended use.

Discards are considered to be that portion of the total catch which is thrown away or slipped. Discards may be comprised of single or multiple species and may be alive or dead. In the context of the Guidelines “discards refer to the throwing away or slipping of dead fish and fish that may not

survive after live release. While the objective is to reduce the capture of living aquatic resources that are not going to be used, some capture is unavoidable. In this case, the objective should be to release them alive and maximize their survival by reducing post-release mortality.”

Some examples of the fishery-specific problems of discarding are given in the Guidelines including:

- changes in food chain ecology through discarding dead fish or fish that may not survive after live release;
- perceived wastage of fish through discarding; and
- unsustainable fishing if the amount of discards is not included in the assessment of the status of the fishery and in the implementation of the relevant management plan.

Throughout the Guidelines, the participation of fishers in various actions and measures is encouraged including provision of knowledge and information, development of policy, laws and measures, testing and evaluating the performance of mitigation measures, implementation of measures and self-policing.

### **Figure 11** **Estimates of bycatch and discards**

According to an estimate by FAO in 1994,<sup>88</sup> by-catches and discards worldwide totalled 18 to 40 million tonnes. This represented just over 25% of the annual estimated total catch. Shrimp fishing, an important fishery in the Wider Caribbean Region, produced the largest volume of discards, an estimated 9 million tonnes annually worldwide.

<sup>87</sup> Some examples of circumstances where bycatch may be defined are given, including where there is a fisheries management plan that does not designate bycatch, it refers to the portion of the total catch that is not consistent with the plan, or that may be designated as prohibited catch. In multispecies/multigear fisheries where there is poor gear selectivity and where most species caught are used, bycatch refers to that part of the catch that should not have been caught, *inter alia*, because of detrimental ecological and/or economic consequences.

<sup>88</sup> Available at <http://www.fao.org/DOCREP/003/T4890E/T4890E02.htm>. Based on the FAO global assessment of bycatch and discards. FAO Fisheries Technical Paper T339. 1994. Also see <http://www.cep.unep.org/issues/biodiversity.html>.

FAO estimated that the Wider Caribbean Region has the highest percentage of discards of any of the major fishing areas, with nearly half of the catch believed to be discarded. Most of this is the by-catch of shrimp trawling, particularly in the Northern Gulf of Mexico.

In 2004, FAO estimated that discarded global catch was approximately 7 million tonnes. Estimating the total amount of global bycatch and discards, however, has proven difficult for a variety of reasons. Depending on the definition used, bycatch may be in excess of 20 million tonnes.<sup>89</sup>

Today, problems persist with the high levels of unwanted and often unreported bycatch and discards in many fisheries around the world, including the capture of juveniles of economically valuable and ecologically important fish.

By-catches include marine mammals, sea turtles, seabirds, as well as finfishes and invertebrates. Dolphins are caught in pelagic drift nets, sea turtles in shrimp trawls and diving seabirds in long-lines.

The framework of the Guidelines on by-catch and discards is shown below.

- 1. Background.** Consideration by the UNGA and FAO of issues relating to bycatch and discards, including the development of relevant instruments as described above, is presented.
- 2. Scope, purpose and objectives.** The scope, purpose and objectives and characteristics of the Guidelines are described in summary above.
- 3. Management framework.** Governance frameworks and institutional and management frameworks are encouraged. Objectives of governance and legal frameworks are provided and implementation consistent with other international instruments urged. States should promote capacity, develop fisheries management plans, strengthen RFMO/As and promote compatible measures concerning the management of bycatch and reduction of discards.
- 4. Bycatch management planning.** Management planning encourages an ecosystem approach to fisheries and calls for States and RFMO/As to identify and assess fisheries where bycatch and discards occur and specify the requirements for management actions. Components of assessments are suggested. Elements for bycatch management planning are elaborated, and adequate funding and staff resources for the planning phase encouraged.

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<sup>89</sup> 2010 FAO International Guidelines on Bycatch Management and Reduction of Discards.

**5. Data collection and bycatch assessments.** Elements of bycatch management planning are described, including monitoring and assessment techniques and data collection procedures and protocols. States and RFMO/As are urged to develop strategies for the long-term collection of accurate data. Objectives of observer programmes are set out and several actions to standardize the collection of bycatch and discard data are elaborated. Other steps to be taken by States and RFMO/As are detailed, including identification of the type and quality of information, assessment of the impacts of bycatch and discards as well as the biological and economic impacts of bycatch management and discard reduction measures. Consideration should be given to whether improved integrated systems are required to aggregate, manage and analyse data.

**6. Research and development.** The importance of research essential for planning for the bycatch management and reduction of discards is emphasized. The Guidelines also refer to research on the biology of species taken as bycatch, the performance of fishing gears and mitigations measures and the social and economic consequences of measures and techniques to manage bycatch and reduce discards. A collaborative approach is encouraged, as well as mapping of seabed habitats and distributions and ranges of species taken as bycatch.

**7. Measures to manage bycatch and reduce discards.** This Part is highly detailed, and covers a wide range of measures. It sets out the characteristics of management measures, urges their periodic review and lists management tools. States and RFMO/As are encouraged to consider input and output controls and improve the design and use of fishing gear and bycatch mitigation devices and take certain spatial and temporal measures. Measures to set limits and/or quotas on bycatches and discards are detailed for consideration of States/RFMO/As, as well as economic incentives and other measures.

**8. Pre-catch losses and ghost fishing.** Possible actions to assess and mitigate impacts of pre-catch losses and ghost fishing are described, and reference is made to the work at the International Maritime Organization in relation to lost fishing gear.

**9. Monitoring, control and surveillance.** The need for MCS is emphasized, including adopting requirements for fishers to report all relevant information on bycatch and discards and undertaking MCS on all relevant fishing operations, including catch handling on board the fishing vessel and landings at ports. Relevant national policies and a legal and institutional framework should be established and the participation of fishers in policy development, implementation and self-policing is encouraged.

**10. Awareness, communication and capacity building measures.** Measures to promote awareness, communication and capacity building are elaborated, including provision of information generally and for fisheries managers, developing a framework for long-term cooperative working relationships with stakeholders, cooperative planning to reduce inconsistencies among management frameworks from local to international levels, collating and sharing best practices, ensuring specialized training for fishing gear technologists and actions to promote the cooperation and uptake of bycatch management and discard reduction measures.

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**11. Considerations for implementation of these Guidelines.** States and RFMOs are encouraged to collaborate to address common issues, standardize monitoring and reporting procedures, inform stakeholders and the general public of actions taken and give consideration to *inter alia*, accountability, adaptability, effectiveness, practicability, socio-economic aspects, timeliness and transparency. FAO is requested to review the progress made in the implementation of the Guidelines on the basis of the existing questionnaire reports to COFI.

**12. Special considerations for RFMO/As.** RFMO/As are urged to recognize the importance of addressing bycatch and discard problems and to cooperate among each other to support bycatch management and discard reduction, including developing the long-term capacity of RFMO/As to coordinate and cooperate for data collection, assessments of bycatch and discards and potential capacity building activities. They should also work with relevant IGOs to address bycatch and discard problems. States participating in RFMO/As should ensure that the relevant RFMO/A working groups include the participation of scientists with appropriate expertise to conduct and evaluate bycatch and discard assessments and proposed mitigation strategies.

**13. Special requirements of developing States.** The special requirements of developing States are addressed by urging States, international financial institutions and IGOs to assist developing States through financial and technical assistance in terms of research, data collection, development of socio-economic studies, technology transfer training and scientific cooperation. FAO is encouraged to provide technical assistance generally and to respond to a range of specific needs that may arise.

In the Caribbean region, the CLME Project highlights bycatch and discard issues in the context of unsustainable fisheries and the ecosystem approach, as shown in Figure 12. Various organizations and institutions have addressed certain aspects of bycatch and discards in the Caribbean region, usually on a species-focused basis. Such actions are described in a 2011 publication that takes an ecosystem approach towards the management of bycatch and discards.<sup>90</sup> The authors suggest priority actions for ecosystem-based management of sea turtles, marine mammals and seabirds.

They point to the need to assess the impact of fisheries bycatch on sea turtles, marine mammals and seabirds. They call for collaboration on a regional scale among organizations and networks to incorporate bycatch monitoring and outreach in their operations. They also recommend strengthening the relationships and partnerships between fisheries bodies such as WECAFC and existing observer programmes, and taking advantage of ongoing initiatives and the expertise of countries with more advanced experience in bycatch reduction devices.

The authors noted that reducing bycatch and labelling the discard of unwanted catch as a non-sustainable practice was already the policy of an increasing number of regional and sub-regional RFMOs. For example, Colombia, Costa Rica, Cuba, Mexico, Trinidad and Tobago and Venezuela were engaged in a five-year FAO Global Project for bycatch reduction in shrimp trawling, with Guatemala and Suriname also participating. Studies to mitigate leatherback turtle bycatch in coastal gill net fisheries in Trinidad were also underway.

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<sup>90</sup> Horrocks J., Ward N., Haynes-Sutton A. *An ecosystem approach to fisheries: linkages with sea turtles, marine mammals and seabirds*. In Fanning L. Mahon R., McConney P. eds "Towards Marine Ecosystem-based Management in the Wider Caribbean". Amsterdam University Press. 2011.

**Figure 12**  
**Some bycatch and discard issues addressed in the**  
**CLME 2011 draft Regional Transboundary Diagnostic Analysis**

The major transboundary impact from unsustainable fishery practices includes threats to biodiversity. In this regard, the incidence of large quantities of bycatch in pelagic fisheries is of concern globally, especially as this bycatch often includes threatened, endangered and /or protected species such as marine mammals, marine turtles and sharks as well as seabirds. The blue shark is listed on the IUCN Red List as Near Threatened, with decreasing population trend. There is concern over the removal of such large numbers of this likely keystone predator from the oceanic ecosystem.

Pelagic sharks are caught in the Caribbean (as well as Atlantic and Gulf of Mexico) with a variety of gears, including longlines, gillnets, handlines, rod and reel, trawls, trolls and harpoons. However, they are mostly caught as bycatch in pelagic longline fisheries targeting swordfish and tunas.

Many of the demersal fisheries in the area are either fully or overexploited, with by-catch and discards being of concern throughout the area, especially for the trawl fisheries.

Overexploitation of the shrimp and groundfish resources combined with excessive by-catch and discards and destructive fishing practices and IUU fishing due to inadequate fisheries management and enforcement could lead to further loss of income, employment, food supply and foreign exchange in the region and should be urgently addressed.

The authors encouraged a regional approach to the development of effective strategies, recommended other priority actions consistent with the Guidelines, and described work that organizations may be undertaking in these areas. The recommended priority actions included:

- strengthening of monitoring programmes;
- mapping of critical habitats;
- protection and management of species and critical habitats;
- investigations of ecological relationships;
- enhanced enforcement capacity;
- assess proposed human interventions; and
- capacity building of existing groups.

On a global scale, inspiration for implementation of the Guidelines may be drawn from the success of the 2002-2008 FAO/GEF/UNEP bycatch reduction project.<sup>91</sup> The project focused on three main objectives: (1) reduce bycatch taken by shrimp trawlers, (2) reduce capture of juvenile fish, particularly of species for human consumption, and (3) increase knowledge on the impact of shrimp trawling on marine habitats”. Outcomes focused on the first two objectives and included greater use of technologies based on using bycatch reduction devices (BRDs).<sup>92</sup> Some achievements of the project included the following, which are also encouraged in the Guidelines:

- implementation of bycatch reduction technologies;
- establishment of strong public-private sector partnerships;
- transfer of bycatch reduction technology between countries and regions;
- training;
- dedicated management plans for some shrimp fisheries;
- incorporation of bycatch mitigation measures into national legislation; and
- reduction of up to 65 percent of juvenile food fish in sea trials.

This type of initiative was clearly of value to the beneficiaries. FAO is continuing to make progress on a follow up project for Latin American countries and is supported in this process by regional fisheries organizations such as OSPESCA and member countries.

At national level, an example of strong action is found in the 2007 US Magnuson-Stevens Act, which provides for the prohibition of imports of certain fisheries products into the United States from countries that have taken no actions to address the problems of IUU fishing and by-catch of protected living marine resources (e.g. sea turtles). The United States has also established a capacity building programme to provide assistance to other countries to promote a collaborative approach to sustainable fisheries.

### **2.6.1 Recommended priorities for implementation**

Actions and measures to address the management of bycatch and the reduction of discards have until now been implemented more on a species-oriented approach, as evidenced by the FAO IPOA-Seabirds and its Best Practices Technical Guidelines, the IPOA-Sharks and Guidelines to Reduce Sea Turtle Mortality in Fishing Operations. The Commission’s attention to this issue in the past has not been extensive.<sup>93</sup>

The International Guidelines on bycatch and discards now provide a comprehensive, incremental and integrated approach consistent with other international fisheries instruments and the

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<sup>91</sup> See [ftp://ftp.fao.org/FI/brochure/REBYC/next\\_level/brochure.pdf](http://ftp.fao.org/FI/brochure/REBYC/next_level/brochure.pdf). “Reduction of Environmental Impact from Tropical Shrimp Trawling through the Introduction of Bycatch Reduction Technologies and Change of Management”. The terminal evaluation is at [ftp://ftp.fao.org/FI/DOCUMENT/rebyc/TerminalEvaluationFinal.pdf](http://ftp.fao.org/FI/DOCUMENT/rebyc/TerminalEvaluationFinal.pdf)

<sup>92</sup> Advantages of using BRDs included: reduction in number of juveniles caught when using BRDs; increased conservation of biodiversity; better product quality; decreased fuel and labour costs; increased cooperation among countries at regional and global scale and greater public-private sector partnerships.

<sup>93</sup> FAO Circular 1050 refers to this issue once, in the summary of the Third Workshop on the Assessment of Shrimp and Groundfish Fisheries on the Brazil-Guianas Shelf, where, towards the end of the workshop, a meeting of Directors produced a number of decisions and recommendations regarding, *inter alia*, issues related to the shrimp fishery (bycatch and discards).



ecosystem approach to fisheries management, and this should be taken into account in setting priorities.

It is recommended that the following priorities be considered for implementation of the FAO Guidelines on bycatch management and reduction of discards.

- a. identify the role(s) WECAFC could play, if any, to assist and facilitate implementation of the UNGA Resolutions and the FAO Guidelines, such as to:
  - promote implementation of the FAO instruments relating to bycatch (seabirds, sharks and turtle mortality);<sup>94</sup>
  - support initiatives to implement the Guidelines within the CLME Project
- b. establish a specific WECAFC Working Group on bycatch issues (maybe including also discards and derelict fishing gear issues)
- c. identify priority fisheries, species and/or habitats for implementation of the Guidelines;
- d. set objectives for the management of bycatch and reduction of discards for priority fisheries, species and/or habitats;
- e. establish a management framework for priority fisheries or species taking into account the ecosystem approach to fisheries and including roles for fishers;
- f. include bycatch management planning in fisheries management plans;
- g. establish or strengthen monitoring and assessment programmes;
- h. develop strategies for the long-term collection of data;
- i. set priorities for research and development;
- j. map critical habitats;
- k. protect and manage species and critical habitats;
- l. strengthen MCS;
- m. build awareness and promote interaction with fishers and other stakeholders; and
- n. generally, cooperate on this issue through the CLME project and other regional or sub-regional mechanisms.

### 3. CONCLUSIONS

Almost all WECAFC Members are party to the 1982 Convention. The Convention provides a basis for all of the other international fisheries instruments described in this document that were developed to address current challenges for fisheries management – on the high seas, on an ecosystem basis, in the deep sea and to ensure sustainable use by managing bycatch and reducing discards.

The international community has invested considerable time and effort in various international, regional and sub-regional fora in identifying and supporting the development of these instruments in order to set priorities, improve cooperation, coordination and harmonization of fisheries management and strengthen compliance tools. At risk is the state of world fisheries themselves and continued economic incentives for widespread IUU fishing.

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<sup>94</sup> Note that the Twenty-ninth Session of COFI in 2011 requested FAO to prepare a report on the extent of the implementation of the 1999 FAO International Plan of Action for the Conservation and Management of Sharks (IPOA-Sharks), and the challenges being faced by Members in implementing the instrument, for presentation to the Thirtieth Session of COFI.

Continued IUU fishing is clearly a concern of countries in the WECAFC region, as shown in the 2010 CRFM Castries (St. Lucia) Declaration on IUU fishing which expressed the desire “of achieving more effective implementation of various international instruments for sustainable fisheries development adopted or enacted in the past decades” and called upon countries to implement the instruments.

Awareness, acceptance and implementation of these instruments is not only a positive step forward, but is completely necessary to combat IUU fishing and take steps towards sustainably managing the dwindling resources. Many WECAFC Members may focus more on artisanal fisheries than high seas or ecosystem needs or activities, but there are clear linkages among all fisheries, as shown in this document.

Subregional and regional mechanisms are fundamental for establishing the cooperation and priorities needed to implement the instruments. WECAFC and other sub-regional and regional organizations have mandates to promote, assist or facilitate implementation. However, the instruments are comprehensive and cannot be completely implemented in the short term. It will therefore be necessary for Members to take into account existing initiatives and determine priorities that will strengthen implementation of the instruments at national, subregional, regional and international levels.

#### **4. SUGGESTED ACTION BY THE COMMISSION**

The Commission is invited to:

- Discuss the recommended priorities for implementation (see sections 2.2.1, 2.3.1, 2.4.1, 2.5.1, and 2.6.1 above)
- Review and finalize the draft resolution of the members of the Western Central Atlantic Fishery Commission on strengthening the implementation of international fisheries instruments (WECAFC/XIV/2012/7)
- Establish WECAFC Working Groups to coordinate and support implementation of WECAFC, members and partners’ work on identified priorities, as appropriate.
- Elaborate on the role of WCAFC in high seas fisheries management and deep sea fisheries in the high seas in particular.

## **FUNCTIONS OF THE COMMISSION**

### **Article 6, WECAFC Statute**

#### **6. Functions of the Commission**

The Commission shall have the following functions and responsibilities:

- a. to contribute to improved governance through institutional arrangements that encourage cooperation amongst members;
- b. to assist its members in implementing relevant international fisheries instruments, in particular the FAO Code of Conduct for Responsible Fisheries and its related International Plans of Action;
- c. to help fishery managers in the development and implementation of fishery management systems that take due account of environmental, social, economic and cultural concerns;
- d. to keep under ongoing review the state of the fishery resources in the area and the related industries and promote the interchange of related information;
- e. to promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the area of competence of the Commission, including on the interactions between fisheries and the ecosystem, and design programmes required for this purpose;
- f. to promote, coordinate and, as appropriate, undertake the collection, exchange and dissemination of statistical, biological, environmental and socio-economic data and other marine fishery information as well as its analysis or study;
- g. to provide the necessary support and advice to enable Members to ensure that fishery management decisions are based on the best available scientific evidence;
- h. to provide advice on management measures to member governments and competent fisheries organizations;
- i. to provide advice on monitoring, control and surveillance, and to promote cooperation on these matters, including joint activities, especially as regards issues of a regional or subregional nature;

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- j. to promote, coordinate and, as appropriate, strengthen the development of institutional capacity and human resources, particularly through education, training and extension activities in the areas of competence of the Commission;
  - k. to promote and encourage the utilization of the most appropriate fishing craft, gear, fishing techniques and post harvesting technologies in accordance with the FAO Code of Conduct for Responsible Fisheries;
  - l. to facilitate trade in fish and fish products by promoting the implementation of internationally accepted sanitary and phytosanitary standards;
  - m. to promote and facilitate harmonizing of relevant national laws and regulations, and compatibility of conservation and management measures;
  - n. to assist its Members in and facilitate, as appropriate and upon their request, the conservation, management and development of transboundary and straddling stocks under their respective national jurisdictions;
  - o. to assist, as appropriate, its Members in preventing and, upon request of the interested parties, resolving fisheries disputes;
  - p. to promote liaison between its members and all competent institutions within the area served by the Commission and adjacent waters;
  - q. to seek funds and other resources to ensure the long-term operations of the Commission and establish, as appropriate, a trust fund for voluntary contributions to this end;
  - r. to serve as a conduit of independent funding to its members for initiatives related to conservation, management and development of the living resources in the area of competence of the Commission;
  - s. to draw up its plan of work;
  - t. to carry out such other activities as may be necessary for the Commission to achieve its objectives, as defined above.