

Report of the

**FAO REGIONAL WORKSHOP ON THE ELABORATION OF NATIONAL
PLANS OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL,
UNREPORTED AND UNREGULATED FISHING**

SOUTHEAST ASIA SUBREGION

Penang, Malaysia, 10–14 October 2004



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PREPARATION OF THIS DOCUMENT

This is the final report of the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – Southeast Asia Subregion held at the City Bayview Hotel, Penang, Malaysia, from 10 to 14 October 2004.

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ABSTRACT

This document contains the report of, and some of the papers presented at, the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – Southeast Asia Subregion which was held in Penang, Malaysia, from 10 to 14 October 2004. The purpose of the Workshop was to assist countries in Southeast Asia, People's Republic of China and the Democratic People's Republic of Korea to develop capacity so that they would be better placed to elaborate National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOAs–IUU). The Workshop addressed the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) in detail and the Technical Guidelines that have been developed to support the implementation of the IPOA–IUU; concepts of planning and the elaboration of action plans; a case study for the development of a NPOA–IUU; and decision-making about IUU fishing and skills enhancement through the identification of key issues relating to NPOAs–IUU, the primary vehicle by which the IPOA–IUU will be implemented by countries. Working groups were formed to encourage maximum participation in the Workshop. A review of the major IUU fishing problems in the region and their possible solutions were discussed.

Distribution:

Participants
FAO Fisheries Officers, Regional and Subregional Offices

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OPENING OF THE WORKSHOP

1. The FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was held at the City Bayview Hotel, Penang, Malaysia, from 10 to 14 October 2004.

2. The Workshop was attended by 31 participants from FAO Members countries and three observers. A list of participants and observers is attached as Appendix B.

3. Mr David Doulman, Senior Fishery Liaison Officer, FAO Fisheries Department, Rome, Italy and Technical Secretary of the Workshop, was invited to make an address. He welcomed participants to the Workshop, extending the welcome on behalf of Mr Ichiro Nomura, Assistant Director-General for Fisheries, FAO Fisheries Department and Mr He Changchui, Assistant Director-General and Regional Representative for Asia and the Pacific. Mr Doulman noted that this was the second Workshop of this type to be held. He reiterated that illegal, unreported and unregulated (IUU) fishing occurred in all capture fisheries and that it was a major focus of international attention because such fishing undermined efforts to sustainably manage fisheries. Mr Doulman added that the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) was intended to be implemented by all countries with wide stakeholder participation. He added that the national plans of action to prevent, deter and eliminate illegal, unreported and unregulated fishing (NPOAs–IUU) were key elements in implementing the IPOA–IUU. Mr Doulman’s statement is attached as Appendix D.

4. The Honourable Mr Y. Bhg. Dato’ Junaidi Che Ayub, Director-General of Fisheries, Malaysia, accompanied by Mr Mohd Najib bin Ramli, Penang State Director of Fisheries, addressed the Workshop and welcomed participants. The Director-General referred to the universal nature of IUU fishing and the concern it had created internationally. In this connection, he recalled that the United General Secretary General in 1999 had advised the General Assembly that IUU fishing was “...one of the most severe problems currently affecting world fisheries ...”. The Director-General stated that Malaysia recognized that IUU fishing was a major problem that undermined fisheries management and that initiatives should be undertaken to combat such fishing. He urged all participants to take steps to develop their NPOAs–IUU. The Director-General, in his closing remarks, proposed that a network be established following the Workshop to exchange information about IUU fishing among countries in Southeast Asia. His statement is attached as Appendix E.

ADMINISTRATIVE ARRANGEMENTS AND TECHNICAL ISSUES FOR THE WORKSHOP

5. The Senior Fishery Officer, FAO Regional Office for Asia and the Pacific (FAO/RAP) and Workshop Coordinator, Mr Derek Staples, explained administrative arrangements for the Workshop. He advised that Mr Ahmad Saktian Bin Langgang, Head of Coastal Resource Management Section, Department of Fisheries, Malaysia, had been selected as Workshop Representative. Mr Staples noted the importance of the role of the Workshop Representative in securing an independent and balanced perspective of the deliberations of the Workshop.

6. The Agenda for the Workshop is attached as Appendix A and the list of documents is attached as Appendix C.

7. Mr David Doulman provided an overview of the technical issues to be addressed in the Workshop. He stated that the objective of the Workshop was to develop national capacity so that countries would be better placed to elaborate their NPOAs–IUU. He outlined the contents of the Workshop in terms of a review of planning; the 1995 FAO Code of Conduct for Responsible Fisheries and the development of the IPOA–IUU, national action towards implementation and related matters; presentation of the IPOA–IUU; consideration of the technical guideline on IUU fishing; national plans of action case study; review of national and regional plans of action already developed, the formation of Working Groups to address making responsible decisions about IUU fishing; and skills development through the preparation of an outline for a NPOA–IUU.

8. With respect to the outcome of the Workshop, Mr Doulman evaluated that it should lead to an increased awareness about the problems and effects of IUU fishing and the need for countries to take concerted action to combat it and a clearer definition of the steps that countries should take to develop their NPOAs–IUU. This should include a greater sharing of experiences about IUU fishing by the participants, and a greater appreciation of the need for enhanced regional harmonization of measures to combat IUU fishing in Southeast Asia.

PLANNING FOR SUCCESS: WHAT IS AN ACTION PLAN?

9. In introducing his presentation on planning, Mr Doulman noted that there were many different types of plans and that they were developed for different reasons and with different levels of complexity. He added that planning was undertaken to assemble ideas in a coherent manner; to try to take account of future uncertainties when operating in a dynamic and changing environment; to ensure proper budgetary control and scheduling of funds; to avoid haphazard implementation of activities; to ensure that activities had a greater chance of success; to provide clarity and transparency; to provide continuity in the event of personnel changes and to improve management.

10. Mr Doulman further noted that a good plan should provide:

- an assessment of the situation “on the ground”;
- goals/objectives;
- a set of actions to be undertaken;
- priorities;
- an indication of the human and financial resources required and how they would be sourced;
- assignment of roles and responsibilities for key persons and/or institutions;
- responsibility for coordination, communication and decision-making;
- establishment of timelines for major activities;
- specification of expected outcomes including “indicators” for each outcome;
- monitoring of implementation, and
- provision for review and revision.

11. Mr Doulman expressed the view that an action plan could be considered a method or approach for implementing a suite of activities to address a certain situation or a particular problem such as IUU fishing, reducing fleet sizes, management of shark populations and

reducing the incidental catches of seabirds in certain longline fisheries either individually or as a combined plan. In developing an action plan, he added that it would be important to:

- specify clearly the nature and extent of the problem to be addressed and its environment;
- what actions should be taken to prevent or avert the problem;
- what resources would be needed;
- responsibility for undertaking actions;
- where and when the actions would be undertaken;
- the need to ensure that actions were consistent with prevailing policy and legislation;
- international cooperation when addressing extraterritorial issues, and
- periodic review to assess progress to determine whether the action plan had achieved its goals.

12. Discussion following the presentation focussed largely on policy and legal considerations relating to the legal authority of a NPOA–IUU. It was noted that national plans should be legally enforceable.

1995 FAO CODE OF CONDUCT FOR RESPONSIBLE FISHERIES AND THE DEVELOPMENT OF THE IPOA–IUU, NATIONAL ACTION TOWARDS IMPLEMENTATION, AND RELATED MATTERS

13. Mr Doulman introduced the presentation by stating that the IPOA–IUU had been concluded within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries. He provided information relating to the Code of Conduct in terms of its:

- background;
- process of elaboration;
- purpose and objective;
- structure, and
- implementation.

He pointed out that the effective implementation of the Code of Conduct provided a challenge for countries in their efforts to devise appropriate fisheries policies and measures that would promote adjustment in fisheries so that responsible and long-term sustainability outcomes would be achieved. The paper relating to the FAO Code of Conduct for Responsible Fisheries is attached as Appendix F.

14. Some participants noted that important steps had already been taken in the Southeast Asian region to implement the Code of Conduct and that some aspects of it had been adapted to regional needs. It was further noted that the Code served as an important reference point for fisheries legislation management and development in Southeast Asia.

15. With respect to the scope and focus of the Code of Conduct, it was pointed out that the Code had been developed primarily with industrial fisheries in mind. This meant that there was limited emphasis on small-scale and inland fisheries, although many of the Code's objectives and principles could be applied to these fisheries.

16. The presentation relating to the IPOA–IUU provided information about the extent, scope and impact of IUU fishing, the international responses to IUU fishing at the global, regional and national levels, the elaboration process within FAO for the IPOA–IUU, the structure and contents of the IPOA–IUU, including the challenges to be met by regional fishery management organizations or arrangements (RFMOs) if their conservation and management effort were to be successful. Mr Doulman noted that IUU fishing flourished principally because countries failed to meet their obligations under international law with respect to flag State control. For this reason, countries and RFMOs were required to look beyond conventional solutions to combat IUU fishing and adopt and implement a wider and more innovative suite of measures. This was one of the fundamental reasons why FAO had elaborated the IPOA–IUU. He indicated that the IPOA–IUU had the potential to facilitate long-term sustainable fisheries. When reinforced and supported by other national and international fisheries instruments, the IPOA–IUU had the capacity to marshal and facilitate cooperative and targeted action against the root cause of IUU fishing. The paper upon which the presentation was based is attached as Appendix G.

17. The Workshop noted the voluntary nature of the Code of Conduct and the IPOA–IUU. However, it was pointed out that countries could, if they so desired, draw on the voluntary instruments as a basis for drafting binding national legislation. Indeed, it was noted that the Code of Conduct had been drafted with this possibility in mind.

18. The need for international cooperation if IUU fishing was to be addressed effectively was raised by some participants. The Workshop noted that it could be relatively futile for one country to adopt certain measures and for its neighbours not to implement similar types of measures. It was agreed that regional cooperation in the implementation of measures to combat IUU fishing was required if loopholes were to be closed and weak points eliminated.

19. Some participants addressed the need for effective internal coordination at the national level to ensure that IUU fishing was addressed in an expeditious and consistent manner. It was noted that coordination between the agency responsible for vessel registration and the agency responsible for the issuing of fishing authorizations, for example, sometimes led to inconsistent decisions. It was noted that the IPOA–IUU encouraged governments to promote effective national coordination in their efforts to combat IUU fishing.

20. Some participants noted that only a few countries in Southeast Asia had accepted the 1993 FAO Compliance Agreement and ratified the 1995 UN Fish Stocks Agreement. They further noted that given the nature and scope of fisheries in the subregion, these two binding international instruments might not be as relevant as they were to countries in other regions. Nonetheless, it was agreed that countries in Southeast Asia should assess the merits of accepting/ratifying these instruments as part of their efforts in addressing IUU fishing.

21. With respect to the implementation of the IPOA–IUU's provisions relating to internationally agreed market-related measures, it was pointed out that such measures adopted should be applied in conformity with the principles, rights and obligations established in the World Trade Organization and implemented in a fair, transparent and non discriminatory manner.

22. The issue of “flags of convenience” or open registries was discussed in the Workshop. It was noted that many countries operating open registries failed to exercise effective flag State control over their vessels and that very often these vessels engaged in IUU fishing and

related activities. The Workshop was advised that FAO had consulted in 2002 with some countries operating open registries and that the report of this Expert Consultation and the papers prepared for it were available from FAO. The report can be downloaded from http://www.fao.org/fi/NEMS/events/detail_event.asp?event_id=14250

PRESENTATION AND DISCUSSION OF THE IPOA–IUU

23. FAO Consultant, Ms Judith Swan, presented the IPOA–IUU, explaining in detail

- the basic terminology;
- the objectives and principles;
- the implementation of measures;
- the special requirements of developing countries;
- the reporting, and
- the role of FAO.

It was noted that translation difficulties existed in some cases in distinguishing the words “deter” and “eliminate”, and this language was clarified. In her presentation, Ms Swan emphasized the range of measures that States need to take to combat IUU fishing. In doing so, she pointed out that States should select those measures that are most appropriate for their purposes, in keeping with the “toolbox” approach adopted by the IPOA–IUU.

24. Discussion was wide-ranging, and included reference to international instruments, RFMOs and national legislation. It was emphasized that although the IPOA–IUU was voluntary, many of the actions and measures it encouraged were based on international law. Similar to the FAO Code of Conduct, its provisions could be implemented through national legislation.

25. The role of RFMOs as outlined in the IPOA–IUU was discussed and the status and responsibilities of cooperating and non-cooperating States was explained. The Workshop noted that some RFMOs had adopted effective documentation and trade measures to combat IUU fishing activities. However, these measures applied almost exclusively to single species. The Workshop noted that there were only two RFMOs of relevance to the region, and both of these dealt with tuna species.

26. The discussion also focused on implementing the IPOA–IUU in national legislation, and in particular, through new evidentiary standards, State control over nationals, vessels without nationality, penalties and sanctions at appropriate levels, administrative penalties and MCS. The Workshop reviewed the status of the participants’ national legislation. Five of the nine countries represented had undertaken recent reviews of their legislation. Others had recently included provisions to address IUU fishing activities. Many participants also reported the development of decentralization policies that enabled a greater emphasis on community-based fisheries management and the consequent strengthening of measures and actions to combat IUU fishing activities in small-scale fisheries.

CONSIDERATION OF THE TECHNICAL GUIDELINES ON IUU FISHING

27. Mr. Staples provided an overview of FAO Technical Guidelines No. 9. He noted that the Technical Guideline was an elaboration of the IPOA–IUU and provided several useful examples of actions that would assist countries in understanding the IPOA–IUU and the range

of actions that were available as part of the “toolbox”. As an introduction to the topic, Mr Staples provided a brief summary of the status and trends of marine and inland capture fisheries in Southeast Asia. The Workshop noted the importance of fisheries and fish to millions of people in the subregion and the need to manage them in a manner that promotes long-term sustainability.

28. Mr Staples’ presentation included a situation report for Southeast Asia against each of the responsibilities and measures advocated in the IPOA–IUU. He noted that a number of countries had signed and ratified the 1982 UN Convention on the Law of the Sea, but to date, only a few had ratified the 1995 UN Fish Stocks Agreement. Mr Staples also provided information on the membership of Southeast Asian countries in various relevant regional fishery arrangements and RFMOs. It was pointed out that despite the fact that over 50 percent of the world’s fishery production came from the Asian region, only two RFMOs existed in the region. These were the Indian Ocean Tuna Commission (IOTC) and the new Western and Central Pacific Fisheries Commission (WCPFC), both of which only dealt with highly migratory tuna species in areas adjacent to the region. The Workshop noted the initiative of the Asia Pacific Fishery Commission (APFIC) in providing an analysis of the current situation regarding subregional fishery arrangements and in initiating discussions on possible future arrangements based on regional seas.

29. Mr Staples highlighted the small-scale nature of the majority of fisheries in Southeast Asia and the multi-species/multi-gear nature of these mainly tropical fisheries. These characteristics made management and IUU fishing issues somewhat different to those in other parts of the world. In considering “All State Responsibilities”, Mr Staples noted that the EEZ arrangements in many seas in Southeast Asia were rather complicated as they were often bordered by several countries, and in the case of gulfs covered several EEZs in a relatively small area. He further noted that several borders between adjacent EEZs lay along the same coast line and the boundaries were not clear, especially to those people living near the borders. It was pointed out that the Southeast Asian subregion had only a few high seas pockets within a maze of EEZs, with the main high seas areas lying on the west in the Bay of Bengal and to the east in the Western Pacific Ocean. The difficulties in applying conventional MCS measures in an area where there were multiple landing sites, with a large proportion of the catch being sold and consumed locally, were also highlighted.

30. In general, the Workshop noted that flag State control over vessels in Southeast Asia was relatively weak, both inside and outside a country’s EEZs. Many vessels, especially those involved in small-scale fishing were not registered and the application of licenses or authority to fish was not well established. Most fisheries were open access in nature although some fisheries had regulations in terms of where people could fish, types of gears they could use, areas where they could fish etc. Many of the IUU fishing practices in Southeast Asia arose from a disregard of these regulations.

31. It was pointed out that vessels from different countries often fished in EEZs of other countries. The Workshop noted that some access agreements existed to promote these activities. Thailand, in particular, fished in the EEZs of many countries in Southeast Asia. Encroachment of unauthorized foreign vessels was highlighted as a major IUU fishing issue. Coastal States cooperation was facilitated through fora such as the Southeast Asian Fisheries Development Center (SEAFDEC), ASEAN and APFIC but there were currently no specific IUU fishing collaborative activities. The need for increased regional cooperation was noted by the Workshop. The special needs of developing countries were also discussed and the

Workshop highlighted the magnitude of the issues in Southeast Asia, compared with single species jurisdictions that had much greater control over fishing activities and vessels.

32. Mr Staples' presentation concluded by pointing out the possible format for a NPOA–IUU. He also summarized the major IUU fishing issues, as provided by participants of the Workshop that could be addressed in the NPOAs. These were:

- Number of unregistered vessels
- Number of unauthorized vessels
 - Shared licenses across several boats
 - Forged or duplicated licenses
- Encroachment of unauthorized vessels
 - Into other country's EEZ
 - Into closed areas (MPAs)
 - Into unauthorized zones
 - Catching unauthorized species
 - Disregarding closed seasons
- Use of banned gears (often destructive)
 - Push nets, dynamites, poisons, small-meshed nets

33. The Workshop recognized that many countries in Southeast Asia had common IUU fishing problems. It was agreed that common approaches to addressing these problems could be beneficial and that cooperation among countries was an important consideration if measures to combat shared problems in a timely and comprehensive manner were to be adopted. It was further agreed that a regional plan of action against IUU fishing could have merit in providing a springboard for strengthening the development of NPOAs–IUU. A regional plan could also very usefully identify the major IUU fishing problems and prioritize actions to address them. However, a regional plan, to be applied in a flexible manner, should not simply replicate the requirements of the IPOA–IUU or replace the need for countries to develop and implement their NPOAs–IUU.

34. Participants agreed that NPOAs–IUU would assist in improving fisheries management and the sustainable utilization of fishery resources in their countries even though the IPOA–IUU was a voluntary instrument and there was no legal obligation to elaborate NPOAs–IUU. An advantage of developing national plans was that they would enable a country to take stock of activities already been undertaken to combat IUU fishing while facilitating a more rational and integrated approach for further action. In this respect, the Workshop noted that the elaboration of NPOAs–IUU should not be viewed as an isolated activity as many other ongoing management activities (e.g. existing MCS/VMS activities) also included combating IUU fishing practises.

NATIONAL PLAN OF ACTION CASE STUDY: A CONTINENTAL STATE

35. Ms Swan presented a model case study of a developing coastal State to show how countries may develop and implement NPOAs–IUU. A fisheries profile of a fictitious State was described, which drew on typical existing circumstances. Elements of a possible NPOA–IUU that could be elaborated for that State were reviewed, taking into account the framework suggested in the FAO Technical Guideline No.9. The model case study is attached as Appendix H.

36. Participants recognized the importance of ensuring that States maintained proper vessel records/registers as a primary tool in combating IUU fishing. Discussion focused primarily on issues relating to vessel/ownership information required for joint venture or charter arrangements. Ms Swan pointed out that reasonable efforts should be made to ascertain whether a vessel had been engaged in or supported IUU fishing activities, mindful that circumstances such as new ownership could indicate a vessel would not be engaged in IUU fishing in future.

37. In the context of RFMOs, it was noted that information available to FAO from RFMOs indicated that the main cause of IUU fishing was a lack of effective flag State control. Some participants pointed out that their countries had been experiencing this problem, caused by unauthorized incursions by vessels from other countries. The Workshop agreed that it was important to ensure that there was effective flag State control as a means of minimizing the effects of IUU fishing.

38. In relation to evidentiary provisions, Ms Swan emphasized the need to ensure that countries had updated legal provisions to cater for new technologies such as digital photographs and VMS. In addition, she further noted the successful implementation by some countries of legislation that allows certificates to be introduced as evidence in specific situations, thereby facilitating the legal process.

REVIEW OF NATIONAL AND REGIONAL PLANS OF ACTION ALREADY PUBLISHED

39. As noted in his opening address, Mr Doulman stated that fewer than ten countries had prepared and disseminated their NPOAs–IUU even though FAO was aware that many other countries and RFMOs were addressing different aspects of IUU fishing through such activities as vessel listing, strengthened international cooperation to fight IUU fishing and enhanced MCS programmes.

40. The attention of the Workshop was drawn to the NPOAs–IUU, some of which were still draft documents, prepared by Republic of The Gambia, Republic of Namibia, New Zealand, Republic of Seychelles, Spain, Kingdom of Tonga and United States of America. It was noted that the European Commission had also prepared a similar document for its Members while the Lake Victoria Fisheries Organization (LVFO) in East Africa had prepared a regional plan of action to combat IUU fishing. Noting some differences among the approaches adopted in the preparation of these documents, Mr Doulman pointed out that they were all, nonetheless, tied closely to the IPOA–IUU.

41. Mr Doulman encouraged participants to review and study the NPOAs–IUU already developed as a means of facilitating the elaboration of their respective NPOAs–IUU following the Workshop.

42. The Workshop was advised that Indonesia has a NPOA–IUU in draft form. Other countries reported that they were in the process of assessing requirements for the elaboration of their NPOAs–IUU. It was noted that this process for some countries was constrained by the revision and approval of new fisheries legislation. Countries in this situation were encouraged, nonetheless, to proceed with the elaboration of their NPOAs–IUU, bearing in mind that they should be viewed as “living” documents, subject to periodic revision as circumstances warrant. The NPOAs–IUU, along with other initiatives should also be seen as

an integral part of an ongoing process towards improved fisheries management. The Workshop noted that this process was important in that it would enable gaps to be identified with respect to the measures adopted or proposed to combat IUU fishing.

43. In relation to the elaboration of NPOAs–IUU, the Workshop recognized the importance of promoting an inclusive approach in drafting the instrument. However, it was pointed out that broad consultation with stakeholders, although highly beneficial, was often a lengthy process.

PROBLEM-SOLVING: MAKING RESPONSIBLE DECISIONS ABOUT IUU FISHING

44. To reinforce the concepts and information presented in the Workshop concerning measures to prevent, deter and eliminate IUU fishing and to encourage participants to interpret and apply them, a problem-solving exercise was undertaken in the Workshop. The outline of the exercise is attached as Appendix I.

45. Participants were requested to work in five groups and to decide what initial steps should be taken to address the IUU fishing problem presented in the scenario. The compositions of the working groups are attached as Appendix J. The solutions to the problem presented in the Workshop by the leaders of each of the working groups are attached as Appendix K.

46. Following the presentations in the Workshop, Ms Judith Swan commented generally on the solutions proposed to the problem. She noted that a range of creative and different approaches had been suggested indicating that there were a range of options that could be considered. She indicated that each group had sought to assemble information for the Minister so as to ensure that he might be as fully briefed as possible. Ms Swan indicated that it was apparent that all groups had recognized the need to cooperate with other countries in order to solve the particular IUU fishing problem. Ms Swan stated that it was encouraging that some groups had sought to take a longer term forward looking approach to ensure that NPOAs–IUU were in place to cater for such problem in future or to strengthen existing NPOAs–IUU where groups had assumed that these plans already existed.

47. Ms Swan indicated that it was apparent from the presentations that the working groups had a good knowledge of the respective roles of officers in government including the need to engage port and market States. Participants were aware of the need to move quickly and to seek effective internal and external coordination when confronted with an IUU fishing problem of the type described in the scenario. Ms Swan noted that an issue that had not been addressed so well by the groups was that of vessel registration and the possibility of taking action against a vessel that was stateless. There was also the possibility of seeking MCS assistance from neighbouring countries. Overall, she concluded that the solutions suggested by the working groups should enable countries to be better placed to address particular instances of unauthorized fishing in zones of national jurisdiction and IUU fishing practises generally.

IDENTIFICATION OF ISSUES AND ACTIONS TO DEVELOP A NPOA–IUU

48. The working groups were presented with the task of outlining the steps to be taken in developing a NPOA–IUU. The five groups were requested to:

- identify the Ministries/Departments involved in the elaboration of a NPOA–IUU;
- what constraints were likely to be faced in the development of a NPOA–IUU;
- how these constraints might be overcome;
- how national resources could be mobilized for the elaboration of a NPOA–IUU;
- what considerations affected the ability of countries to deliver a NPOA–IUU, and
- identification of major activities, approvals required and starting and completion dates.

49. The reports of each of the working groups are attached as Appendix L.

50. In commenting on the presentations, Ms Swan commended the groups for their hard work and pointed out that the reports of the groups could be very useful at a later stage in developing NPOAs–IUU. She added that although groups had in some cases adopted different approaches, there was a high degree of commonality among the issues and solutions proposed.

51. Ms Swan noted that the working groups had identified a broad range of agencies that would need to be consulted in the elaboration of NPOAs–IUU. However, she noted that groups had not generally identified the Office of the Prime Minister, the planning agency, nor the agency responsible for communication. She indicated that it was highly valuable to engage these offices at an early stage.

52. Commenting on the constraints identified by the working groups, Ms Swan noted that many of the groups had identified similar issues. However, she added that there had been few references to the need to accept and implement international instruments in the fight against IUU fishing and few references to the need for bilateral and regional cooperation. Some groups had referred to fleet overcapacity. She stated that this issue certainly contributes to IUU fishing and reference to it should be made in NPOAs–IUU.

53. Most working groups referred to similar issues with respect to ways and means of addressing IUU fishing and in mobilizing resources. Ms Swan underscored the importance of awareness building and stakeholder consultation if IUU fishing was to be combated in an effective manner. Importantly, Ms Swan stated that it was not necessary to have laws in force before a NPOA–IUU could be elaborated and implemented. Rather, a country could proceed with the development of its NPOA–IUU and specify in the plan what legislative measures should be taken in order to have its provisions enforceable at law.

REGIONAL IUU FISHING PROBLEMS AND ACTIONS TO ADDRESS THESE PROBLEMS

54. The Workshop considered the range of IUU fishing problems prevalent in Southeast Asia and developed priority listings by country. In turn, a priority ranking of issues for the subregion was developed. Participants also proposed a list of actions to be taken to address the IUU fishing problems that had been identified. The priority listing of problems by country

and for the region and the proposed actions to combat these problems are attached as Appendix M.

55. Discussion of the main IUU fishing issues reflected a good understanding of the problems that countries are encountering. It was evident that many of the problems were similar although the severity of the problems varied among countries. Participants were aware of the merits of adopting both “hard” (e.g. confiscation of catch and vessels) and “soft” (awareness building) approaches to combating IUU fishing, recognizing that a mix of measures were needed depending on national policies and conditions and whether nationals or foreign fishers were involved.

56. Some participants stressed the relevance and importance of bilateral and regional cooperation in matters relating to IUU fishing, citing activities such as the sharing of information about IUU fishers and vessels and joint enforcement programmes. It was noted that such programmes had proven to be effective in facilitating coordinated MCS arrangements and reducing the incidence of IUU fishing in some instances.

57. The use of prohibited gears and fishing methods generated considerable discussion in the Workshop. Some participants pointed out that countries had introduced innovative measures to address these problems including the imposition of travel/movement restrictions on persons found using dynamite for fishing and requiring persons in possession of dynamite to justify why they had dynamite in their possession. However, the Workshop agreed that the use of prohibited gears and fishing methods was symptomatic of deeper-seated social and economic problems that needed to be addressed concurrently if the fisheries problems were to be alleviated.

58. Some participants expressed the view that the ranking of IUU fishing problems in Appendix M reflected the severity and prevalence of problems in Southeast Asia. However, it was pointed out that some of the issues could be more precisely defined and clustered into groups. A concern was expressed that the ranking of “inadequate legislation for IUU fishing/MCS” underestimated the adequateness of legislation in the subregion to effectively deal with IUU fishing and MCS. Similarly, it was noted that the listing of issues focused principally on marine issues and that some issues of concern to inland fisheries had been overlooked.

PROPOSED FOLLOW-UP ACTIONS TO THE WORKSHOP

59. The following broad steps needed to develop and implement NPOAs–IUU were agreed at the Workshop. It was noted that more detailed actions were provided in the working groups’ reports, which included the range of Ministries/Departments/entities that needed to be involved, constraints, solutions and timing for elaborating NPOAs–IUU (Appendix L).

Actions to be undertaken by States

60. The Workshop agreed that States should take action:

- to undertake reviews of national policy, legislation and applicable bilateral and multilateral agreements, and modify and strengthen, as appropriate (especially resolve conflicting policy objectives both within and among Ministries/entities).
- to encourage States to adopt and comply with international fisheries instruments.

- to develop/strengthen institutional arrangements to build linkages among Ministries, stakeholders, as well as other States in the region.
- to mobilize funds to support the planning process.
- to provide training and other human resource development activities to build capacity of key players.
- to conduct evaluations of the nature and extent of IUU fishing.
- to promote the importance of the impact of IUU fishing through education and awareness, especially consultation with stakeholders (including other Ministries/entities, NGOs, fishery associations, other countries that have implemented NPOAs–IUU).
- under the direction of a lead agency, to undertake participatory (including inter-agency) strategic planning to develop NPOAs–IUU, based on priority issues and actions. This should include gaining endorsement and ownership from stakeholders.
- to encourage sharing of NPOAs–IUU and experiences in the development of these plans of action.
- in parallel, to conduct planning and to formulate measures to reduce fishing over-capacity and to combat IUU fishing through reducing negative economic incentives.
- to convince and request budgets from governments to implement NPOAs–IUU.
- to develop/strengthen domestic and regional MCS networks.
- to develop regional plans of action for disputed areas and to seek to settle claims through diplomatic channels.
- to conduct regular reviews and revisions of NPOAs–IUU.

Action by FAO and other regional fishery bodies (RFBs)

61. The Workshop recommended that FAO and other RFBs:
- assist in developing national and regional guidelines for NPOAs–IUU (e.g. standardize definitions);
 - provide technical assistance and expertise in developing NPOAs–IUU including communication/working accessories (e.g. computers, visual aids for use in workshops, etc.);
 - hold follow-up workshops to share experiences with developing NPOAs–IUU, and
 - investigate the possibility of developing a regional project for developing and implementing NPOAs–IUU.

REPORT OF THE WORKSHOP REPRESENTATIVE

62. The Workshop Representative posed the question: “What has happened to the fish stocks of the world?”. He responded that resources have continued to decline at an alarming rate and that something must be done to stop this decline. He added that all countries were trying to ensure that their resources were exploited in a sustainable manner but the presence of IUU fishing made this task even harder. The Representative stated that it was timely to develop NPOAs–IUU. He noted that the Workshop that was organized by FAO and hosted by the Fisheries Department of Malaysia was appropriate for all ASEAN members including our bigger brothers like China and Korea, DPR. The Representative stated that he strongly believed that all participants and observers were now capable of producing NPOAs–IUU,

reminding the Workshop that high seas aspects should be addressed. He pointed out that in the event that countries encountered difficulties, FAO could be called upon to assist in the development of the NPOAs-IUU. On behalf of the participants and observers, the Representative thanked FAO staff for their contribution to the Workshop. He also thanked the Fisheries Department of Malaysia for hosting the workshop. Finally, the Representative wished all the participants a happy and safe journey home requesting that they stay in contact by email or another means of communication.

CLOSURE OF THE WORKSHOP

63. On behalf of the Regional Representative for Asia and the Pacific, Mr Staples thanked all the participants for their active input into the Workshop. He stated that he was very impressed with their industrious and positive participation, both in plenary discussions and in the working groups. On behalf of all participants, Mr Staples also thanked his FAO for making the Workshop both informative and interesting. He added that the host Government of Malaysia and the Secretariat contributed greatly to the success of the Workshop. Mr Staples noted that all the arrangements were excellent and it had been a pleasure working with the organizers, both in the planning and implementation of the Workshop. He added that FAO remained committed to the implementation of the IPOA-IUU in Southeast Asia and hoped that the start made in this Workshop would be carried forward into the development of NPOAs-IUU in each country. Mr Staples concluded that working in collaboration with other subregional fishery bodies, FAO hoped that it would be possible to maintain contact and collectively address the many IUU fishing issues in the subregion.

64. Mr Doulman also thanked the participants and observers, staff of the Malaysian Department of Fisheries and FAO colleagues for their support and hard work before and during the Workshop. He expressed his gratitude to the Workshop Representative. The Technical Secretary stressed the importance of the effective implementation of the IPOA-IUU in Southeast Asia where the responsible management and utilization of all fisheries were of the utmost social and economic importance. He reiterated that FAO gave high priority to the implementation of the IPOA-IUU, to achieving long-term sustainable outcomes in fisheries and to ensuring that the fisheries sector made a maximum contribution to food security and human welfare.

65. Ms Pongthong Onoora, on behalf of the participants and observers, expressed her appreciation to the Government of Malaysia for hosting the Workshop. She also expressed her gratitude to the Director-General of the Department of Fisheries, Malaysia, and his efficient staff for their hospitality and kind assistance extended to all participants and observers during their stay in Penang. Ms Onoora thanked FAO for organizing the very useful Workshop and extended special thanks to Mr David Doulman, Mr Derek Staples and Ms Judith Swan, along with other FAO staff. She added that she believed that the Workshop had marked an important milestone in combating IUU fishing activities in Southeast Asia. Finally, Ms Onoora thanked all participants and observers for their active participation and contributions in making the Workshop a great success.

66. The Workshop closed at 12.00 hrs on 14 October 2004.

AGENDA

Opening of the Workshop

Administrative arrangements and technical issues for the Workshop

Planning for success: what is an action plan?

1995 FAO Code of Conduct for Responsible Fisheries and the development of the IPOA–IUU, national action towards implementation, and related matters

Presentation and discussion of the IPOA–IUU

Consideration of the Technical Guideline on IUU fishing

National plan of action case study: a continental State

Review of national and regional plans of action already published

Problem-solving: making responsible decisions about IUU fishing

Identification of issues and actions to develop a NPOA–IUU

Regional IUU fishing problems and actions to address these problems

Proposed follow-up actions to the Workshop

Report of the Workshop Representative

Closure of the Workshop

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DOCUMENTATION PRESENTED

- Agenda
- 1995 FAO Code of Conduct for Responsible Fisheries: development considerations and implementation challenges
- 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing: Background and Progress towards Implementation. David J. Doulman, FAO Fisheries Department. Rome, Italy
- FAO Code of Conduct for Responsible Fisheries. Rome. FAO.1995.
- International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.
- Implementation of the International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing. FAO Technical Guidelines for Responsible Fisheries. No.9. Rome. FAO. 2002.

OPENING STATEMENT

by
David J. Doulman
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Honourable Y. Bhg. Dato' Junaidi Che Ayub, Director-General of Fisheries, Distinguished Representatives from the Government of Malaysia, Workshop Participants and Observers and FAO Colleagues:

It is a pleasure for me to welcome you to this workshop that has been convened by FAO to focus on the elaboration of national plans of action to combat illegal, unreported and unregulated fishing (NPOAs-IUU). I also extend this welcome on behalf of Mr. Ichiro Nomura, Assistant Director-General for Fisheries and Mr. Changchui He, Assistant Director-General and Regional Representative for Asia and the Pacific.

The convening of this second workshop in a series to be held in different regions around the world has involved a team effort on the part of staff from the Fisheries Department in Rome and counterparts from the Regional Office for Asia and the Pacific. Indeed, our Bangkok-based colleagues, working closely with staff of the Malaysian Department of Fisheries, have been largely responsible for the logistical aspects of the workshop. To all those people who have worked so diligently and hard to facilitate this event please accept my sincere thanks.

IUU fishing, which occurs in all capture fisheries, has been a focus of attention in FAO for many years but over the past five years the focus has become sharper. Such fishing has already been considered in a number of fora within the Organization including the Committee on Fisheries, the FAO Council and the FAO Conference. In addition, different aspects of IUU fishing have been the subject of FAO expert and technical consultations.

I am sure that many of you are aware that the international community has identified IUU fishing to be a major impediment to achieving sustainable fisheries and, as a result, an issue that should be treated with priority. For this reason in 2001 FAO Members, after a fairly short negotiation process, adopted a voluntary instrument known as the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). It was adopted within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries.

The IPOA-IUU has a broad scope. It seeks to deal with IUU fishing in a holistic and structured manner. The IPOA-IUU contains a number of measures that can be applied flexibly at the national and regional levels to combat IUU fishing because it is recognized that not all of its measures are applicable in all countries and in all capture fisheries.

The IPOA-IUU contains seven different types of measures that can be applied individually or in combination against IUU fishing. These measures should be implemented by governments and interested stakeholders, particularly industry, fishing communities and non-governmental organizations (NGOs). FAO's role is to promote and galvanize action against IUU fishing and IUU fishers rather than intervening directly in the implementation process.

The IPOA–IUU calls on States to elaborate NPOAs–IUU, as soon as possible, but not later than June 2004. These national plans are the vehicles to give life to the IPOA–IUU. However, to date only about 10 countries have prepared and disseminated NPOAs–IUU even though FAO is aware that many other countries and regional fishery management organizations (RFMOs) are addressing different aspects of IUU fishing through such activities as vessel listing, strengthened international cooperation and fisheries monitoring, control and surveillance (MCS) programmes.

According to recent information available to FAO the incidence of IUU fishing is increasing. In late 2003 the FAO Conference adopted a Resolution concerning progress with the implementation of the IPOA–IUU. The Resolution noted, *inter alia*, the continuing high and growing incidence of IUU fishing and related activities and a lack of political will and capacity by some governments to deal effectively with such fishing. The Resolution also noted a lack of commitment by some States with respect to IUU fishing to meet their obligations under international law. For these and other reasons the FAO Conference urged States and RFMOs to take direct and indirect action against IUU fishing.

Some Members have advised FAO that their efforts to implement the IPOA–IUU are being constrained by a lack of financial and human capacity. These constraints, in turn, inhibit the development of NPOAs–IUU, the national cornerstones in the implementation process. Through workshops such as this one FAO is attempting to fill a capacity gap in a practical manner by working with countries to improve the skills needed to prepare their NPOAs–IUU.

Let me say in conclusion that the IUU fishing problem is large, has many dimensions and is extremely dynamic. For this reason there is no room for complacency and wider and deeper efforts are needed to ensure that the IPOA–IUU is implemented fully. The preparation and implementation of NPOAs–IUU is a key element in this process.

I wish you all a very successful workshop and I urge that after you return to you respective administrations that you do all within your capabilities to put in place NPOAs–IUU. This is important for food security and livelihood considerations for both present and future generations.

Thank you very much for your attention.

OPENING STATEMENT

by
Dato' Junaidi bin Che Ayub
Director General of Fisheries
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Mr David Doulman, Senior Fishery Policy Officer and Technical Secretary of the Workshop, Mr. Mohd Najib bin Ramli, Penang State Director of Fisheries, Distinguished Experts, Participants and Guests

Ladies and Gentlemen,

Assalamualaikum WBRT and a very good morning.

It is indeed an honour for me to be given the opportunity to address a distinguished audience this morning. On behalf of the Government of Malaysia, I offer to all of you a most cordial welcome or Selamat Datang to our country. We are delighted to have you here and feel very proud of the opportunity to host the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing for the Southeast Asian Region.

As you are aware, the Twenty-fifth Session of the Committee on Fisheries (COFI) had considered the International Plan Of Action – Illegal, Unreported and Unregulated (IPOA-IUU) in February 2003 and members had appealed to FAO to provide assistance to facilitate implementation, especially for the development of national plans of action on IUU. This workshop is one of the efforts undertaken by FAO to assist member countries in South East Asia to develop their own National Plan of Action on IUU.

On this note, I would like to congratulate and thank FAO for the efforts undertaken to organize this workshop for the South East Asian member countries to ensure the sustainability of the fisheries in this region.

We are all aware that illegal, unreported and unregulated (IUU) fishing is an issue hotly debated in many international fisheries fora including those of the United Nations, FAO, regional fisheries management organizations (RFMOs) and at the World Summit on Sustainable Development. IUU fishing is a serious threat to achieving long term sustainability in fisheries, as envisaged in Agenda 21 and the 1995 FAO Code of Conduct for Responsible Fisheries, because it undermines national and regional efforts to rationally conserve and manage fish stocks.

IUU fishing can occur within zones of national jurisdiction, within areas of control of regional fisheries bodies, or on the high seas. With the increasing demand for fishery products and the decline of fishery resources, the increasing incidence of IUU fishing has been of great concern to responsible fishing nations. In a 1999 report to the United Nations (UN) General Assembly, the UN Secretary General stated that IUU fishing was “one of the most severe problems currently affecting world fisheries.” By hindering attempts to regulate an otherwise legitimate industry, IUU fishing puts at risk millions of dollars of investment and thousands of jobs as valuable fish resources are depleted below sustainable levels.

Ladies and Gentlemen,

Malaysia recognizes that IUU fishing activity is a major problem, which undermines the effectiveness of long-term sustainable fisheries management and we should support initiatives undertaken by FAO and Regional Management Bodies to combat the IUU fishing activity. However, the definition of IUU and related activities has to be clearly defined.

In Malaysia, the fisheries have been managed by the Government through limited entry licensing system. The fisheries management activities are supported by the Fisheries Act 1985 and subsidiary legislations made under the Act. The Fisheries Act, 1985 clearly spelt out that nobody is allowed to fish in the Malaysian fisheries waters without a valid fishing appliance and fishing vessel licence. Anybody who is found guilty of fishing without a valid fishing appliance and fishing vessel licence shall be penalised under this Act. Therefore, Malaysia has a legal framework to prevent and deter illegal and unauthorized fishing in the Malaysian fisheries waters.

However, we are still faced with some problems of illegal fishing from foreign fishing vessels in the Malaysia Exclusive Economic Zone. This is due to collective action failure among fishing nations who do not resume their duties and responsibilities to ensure their nationals to observe and comply with international arrangements to conserve our common fish resources. Malaysia believes that all nations have to cooperate to establish an agreed and effective fisheries management mechanism to combat IUU fishing activity.

In the year 2003, there were 103 foreign fishing vessels apprehended by the enforcement agencies for illegal fishing in the Malaysian fisheries waters. As of September 2004, a total of 79 foreign fishing vessels were apprehended for similar offences.

IUU fishing on the high seas is a highly organised, mobile and elusive activity undermining the efforts of responsible countries to sustainably manage their fish resources. International cooperation is vital to effectively combat this serious problem. By using regional fisheries management organisations as a vehicle for cooperation, fishing states, both flag and port states, and all major market states, should be able to coordinate actions to effectively deal with IUU fishing activity.

Malaysia has officially become a party to the Indian Ocean Tuna Commission since November 1998. In line with the Strategic Action Plan for the Development of Tuna (2002-2010), Malaysia is encouraging the local entrepreneurs to venture into tuna fishing in the Indian Ocean. Tuna fishing in Malaysia is still at the infancy stage. At present, there are only 14 fishing vessels operating tuna fishing activities in the Indian Ocean. For purposes of data monitoring, these fishing vessels are required to land their catches at designated ports.

The lack of port State measures has been identified by FAO as one of the weakest links in the chain to prevent, deter and eliminate IUU fishing. It is therefore important that the NPOA has to incorporate measures that have to be taken by port State to combat IUU fishing.

Ladies and Gentlemen,

The 2002 World Summit on Sustainable Development (WSSD) called for member countries to develop and implement NPOA–IUU by 2004. We have an important task to develop the NPOA as the year 2004 is ending soon. I hope that after attending this workshop, each member country could develop its own NPOA and implement the plan. By doing so, it will assist the member countries in this region to deter IUU fishing.

In developing the NPOA to deter, prevent and eliminate IUU fishing activity, we should take into account the different characteristics of the fisheries in this part of the world, the different level of fisheries development and the different capability and capacity in implementing any international

arrangement. For example, Malaysia has a multi-species, multi-gears tropical fisheries. Our fisheries are largely dominated by small-scale coastal fisheries, which contributes almost 90% of our total fish landings and has provided almost 80,000 employment opportunities to our coastal population. Majority of them possess low education level. Furthermore, there is high incidence of poverty among fishing community. Due to these characteristics, Malaysia hopes to develop a peculiar NPOA to cater for the needs of the domestic fisheries. As a follow up to this workshop, a network should be established to facilitate information exchange pertaining to IUU among member countries.

For the participants who are here for the first time, may I suggest that you take this opportunity to explore and take in the warmth of Penang – The Pearl of The Orient after attending to the business at hand. As the host to this workshop, I would like to apologize for any shortcomings in the organization of this workshop.

Last but not least, I would like to thank all the distinguished participants, resource persons for making available your time to attend this Regional Workshop on IUU Fishing. I would also like to thank FAO and the secretariat for effort undertaken to ensure the success of this workshop.

I sincerely hope that you will have a fruitful and successful workshop.

With that note, and with the phrase Bismillahhirramanirrahim, it is my pleasure to declare open the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing for the Southeast Asian Region.

Thank you.

**1995 FAO CODE OF CONDUCT FOR RESPONSIBLE FISHERIES:
DEVELOPMENT CONSIDERATIONS AND IMPLEMENTATION CHALLENGES**

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BACKGROUND

The concept of a code of conduct for responsible fisheries and the possibility of elaborating guidelines or a code of practice was first mooted at the Nineteenth Session of the Committee on Fisheries (COFI) in 1991 within the context of its deliberations concerning large-scale pelagic driftnet fishing.¹ In this connection, COFI recognized that FAO “... had an important role to play in promoting international understanding about the responsible conduct of fishing operations and recommended that FAO should strengthen its work on gear selectivity and behaviour of marine animals in relation to fishing gear particularly but not exclusively those types of fishing gear which are employed in high seas fisheries. Such technical work could result in the elaboration of guidelines or a code of practice for responsible fishing which would take into account all the technical, socio-economic and environmental factors involved.” It was in this manner that the concept of, and the need for, a Code of Conduct for Responsible Fisheries was conceived.

Responding to the call from COFI, the Government of Mexico in consultation with FAO organized the International Conference on Responsible Fishing in Cancún in May 1992.² The objectives of this Conference were threefold to:³

- attain consensus on the need to establish a fishing activities code of conduct which would lead towards responsible fishing principles and which would be observed by producer and consumer countries;
- analyze the research and technological development needs for the best use of resources and their preservation, without damaging the environment, and to explore ways to attain technology transfer and technological and scientific cooperation, and
- propose criteria to be used in defining the adequate approaches for responsible fishing and the commercial practices that could offer the consumer access to quality fish at a fair price.

The Conference was well attended with representatives from more than 60 countries and the European Community. In addition, representatives from key intergovernmental organizations, non-governmental organizations (NGOs) and regional fishery management organizations (RFMOs), participated. The Conference considered background papers focusing on the world’s fisheries situation; fishery resources and their environment, management and development; fish capture activities, and fish trade.

¹ FAO. 1991. FAO Fisheries Report No. 459. “Report of the Nineteenth Session of the Committee on Fisheries”. FAO. Rome. 59p.

² Preamble by the Mexican Secretary of Fisheries to the report of the International Conference on Responsible Fishing (mimeo).

³ The objectives of the Conference and the scope of the papers prepared for it embraced broader fisheries issues than fishing in isolation.

The Conference adopted the Declaration of Cancún. It noted, *inter alia*, the vital need for fishing to continue and to develop within a comprehensive and balanced system under the concept of 'responsible fishing'. The Declaration further noted that this concept encompassed the:

- sustainable utilization of fisheries resources in harmony with the environment;
- use of capture and aquaculture practices that are not harmful to ecosystems, resources or their quality;
- incorporation of added value to such products through transformation processes meeting the required sanitary standards, and
- conduct of commercial practices to provide consumers access to good quality products.

The Declaration urged States to implement a wide range of measures as a means of achieving sustainable fisheries. Finally, the Declaration, *inter alia*, called upon FAO, in consultation with relevant international organizations, to draft an International Code of Conduct for Responsible Fishing.

Significantly, the Cancún Conference provided input to the 1992 United Nations Conference on Environment and Development (UNCED), or Earth Summit, that was held shortly after the Cancún Conference. UNCED hastened the process within FAO to address issues relating to responsible fisheries as a result of the adoption of Agenda 21: The United Nations Programme of Action from Rio.

In 1993 the Twentieth Session of COFI noted that the FAO Council in November 1991 had already endorsed the request made in the Declaration of Cancún for FAO to elaborate, in consultation with relevant international organizations, a Code of Conduct for Responsible Fisheries.⁴ COFI agreed that such a Code would be important for achieving sustainable fisheries development. At the same time COFI expressed satisfaction that FAO would contribute in a technical and scientific capacity to the UN Fish Stocks Conference. The Committee also agreed that the negotiation of the Compliance Agreement should be kept on a 'fast track', while reiterating that flagging issues would be among the issues to be covered by the Code.⁵

The scope and the process of elaboration of the Code were major items for discussion at the 1995 Twenty-first Session of COFI. The Committee stressed the importance of the Code as an instrument to support the implementation of the 1982 Convention on the Law of the Sea (1982 Convention) as well as the fisheries outcomes of UNCED. COFI also noted that technical guidelines would be developed by FAO to support and facilitate the Code's implementation.⁶

The Code's elaboration was largely achieved through open-ended technical working groups. All of these working groups met at FAO Headquarters in Rome.⁷ Open-ended groups were convened so as to encourage as wider participation as possible in the negotiation process. Recognizing the financial difficulty that many developing countries had in participating in the work of these groups, FAO supported the participation of some countries at meetings with a view to maintaining regional representation and balance. Moreover, in the elaboration process close relations between FAO and international NGOs were encouraged. Many of these NGOs made sustained and important technical contributions to the elaboration process. This participation and transparency was highly appreciated both by FAO Members and the international NGO community.

⁴ The title of the Code was changed from 'fishing' to 'fisheries' following the conclusion of the Cancún Conference so as to reflect the real purpose and intent of the proposed Code.

⁵ FAO. 1993. FAO Fisheries Report No. 488. 'Report of the Twentieth Session of the Committee on Fisheries'. FAO. Rome. 77p. The Compliance Agreement is not discussed in detail in this paper because it being addressed extensively in other sessions of this Conference.

⁶ FAO. 1995. FAO Fisheries Report No. 524. 'Report of the Twenty-first Session of the Committee on Fisheries'. FAO. Rome. 61p.

⁷ While all the working groups were held at FAO Headquarters in Rome, FAO did avail itself of the opportunity to convene briefing sessions for countries and non-governmental organizations in New York at the UN Headquarters when Session of the Fish Stocks Conference were in progress.

At the 1997 Twenty-second Session of COFI, the Code of Conduct was addressed as a substantive item. In considering this item the Committee focused, to a significant extent, on securing funding to support the implementation of the Code in developing countries and on monitoring and reporting on its implementation. COFI agreed that progress reports should be presented to the Committee at each session. These reports would address achievements and progress with implementation. Governments and civil society would be requested to provide information to FAO on progress achieved with national implementation through the use of a questionnaire. This information would then be incorporated into a consolidated report for COFI.⁸

SCOPE AND OBJECTIVES

The Code's scope is broad and comprehensive. It prescribes principles and standards for the conservation and management of all fisheries, and to this end, the Code addresses the capture, processing and trade in fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management. Moreover, the Code takes cognisance of the state of world fisheries and aquaculture, and proposes actions towards implementing fundamental changes within the fisheries sector to encourage sustainable utilization of fisheries and aquaculture, as envisaged by COFI when the Code was proposed and Agenda 21.

The rationale underpinning the Code is the notion that structural adjustment within the fisheries sector is required if long-term sustainability goals are to be realized. Moreover, the Code recognizes that while policy decisions concerning the changes aimed at achieving sustainability rest firmly with governments, the effective implementation of the Code requires wide stakeholder participation and cooperation (i.e. from fishermen, processors, NGOs to consumers).

The Code's objectives are in Article 2. The objectives are to:

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

⁸ The monitoring function of the Code is an on-going FAO activity. It is achieved both through both informal and formal mechanisms, though the most important means for monitoring is the information provided to FAO by its Members and civil society.

STRUCTURE

The Code is a voluntary instrument. In total, the Code has 12 articles and two annexes. Articles 1 to 5 cover, respectively, the nature and scope of the Code, objectives, the relationship with other international instruments, implementation, monitoring and updating, and the special requirements of developing countries.

The substantive articles of the Code are found Articles 6 to 12. These articles are:

- Article 6 General Principles;
- Article 7 Fisheries Management;
- Article 8 Fishing Operations;
- Article 9 Aquaculture Development;
- Article 10 Integration of Fisheries into Coastal Area Management;
- Article 11 Post-harvest Practices and Trade; and
- Article 12 Fisheries Research.

The Code's two annexes provide respectively, background information on the elaboration of the Code and the text of FAO Conference Resolution 4/95 concerning the adoption of the Code.

Resolution 4/95, recalling Article 5 of the Code, urged that the special requirements of developing countries be taken into account in implementing its provisions. The resolution also requested FAO to elaborate an inter-regional programme for external assistance for these countries.⁹ The purpose of this programme is to target the upgrading of developing countries' capabilities so that they would be better placed to meet their obligations under the Code. Unfortunately, FAO has not met with great success in securing trust funds to support the inter-regional programme.

RELATIONSHIP WITH OTHER RECENT FISHERY INSTRUMENTS

The Code is closely related to several other fishery instruments and it serves, in different ways, to re-enforce and support their goals and purpose.¹⁰ To this extent the Code and these other instruments, which have similar overall goals but more limited foci, can be viewed as a package designed to confront fisheries and aquaculture problems at different levels and on different fronts. These instruments include the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the international plans of action (IPOAs) dealing with the:

- incidental catch of seabirds in longline fisheries;
- conservation and management of sharks;
- management of fishing capacity,
- prevention, deterrence and elimination of illegal, unreported and unregulated fishing, and
- improving information on the status and trends in capture fisheries.

⁹ This request was met through FAO elaborating the Interregional Programme of Assistance to Developing Concerns for the Implementation of the Code of Conduct for Responsible Fisheries.

¹⁰ Article 3 of the Code requires that it be interpreted in conformity with the 1982 Convention, and in a manner consistent with the UN Fish Stocks Agreement and in the light of the 1992 Declaration of Cancún, the 1992 Rio Declaration on Environment and Development, Chapter 17 of Agenda 21 and other relevant declarations and international instruments.

1993 FAO Compliance Agreement

The 1993 FAO Compliance Agreement is an integral component of the Code, even though it has a different legal status to the Code.¹¹ Currently, 28 States and the European Community have accepted the Compliance Agreement¹². The Agreement will enter into force on the date of receipt by the Director-General of FAO of the twenty-fifth instrument of acceptance.

The purpose of the Agreement is to permit countries to take effective action, consistent with international law, to deter the reflagging of vessels by their nationals as a means of avoiding compliance with high seas conservation and management measures. This means that countries that have accepted the Agreement are obligated to ensure that their flag vessels operating on the high seas are duly authorized to fish there. Such authorization should, as a result, enhance flag State control in high-seas fisheries and enable these fisheries to be more effectively managed.

1995 UN Fish Stocks Agreement

The Code, because of its application to all fisheries, reinforces the principles and provisions of the 1995 UN Fish Stocks Agreement with respect to the conservation and management of straddling fish stocks and highly migratory fish stocks. If effectively implemented in tandem, the Code of Conduct and the 1995 UN Fish Stocks Agreement should enhance the long-term status of these two types of stocks.

International plans of action and strategy

To date four IPOAs and one strategy have been concluded within the framework of the Code. These IPOAs and strategy support the Code's fundamental trusts and intent while focusing on specific fisheries management issues.

The IPOAs target specific fishery conservation and management issues that have been identified by the international community as requiring urgent attention. The IPOAs for the management of fishing capacity and IUU fishing, in particular, address directly and indirectly, issues of fundamental concern such as overfishing and the need to rebuild fish stocks. The IPOAs on the conservation and management of sharks and incidental catches of seabirds in longline fisheries focus on rebuilding depleted stocks and the minimization of waste in fisheries. These issues, among others, and the need to address them in a timely and coherent manner were identified in the 1995 Rome Consensus as being critical to improving sustainability.

The Strategy for Improving Information on Status and Trends of Capture Fisheries (Strategy-STF), endorsed by the FAO Council in 2003, is a voluntary instrument that applies to all States and entities. Its overall objective is to provide a framework, strategy and plan for the improvement of knowledge and understanding of fishery status and trends as a basis for fisheries policy-making and management for the conservation and sustainable use of fishery resources within ecosystems.

IMPLEMENTATION

In adopting the Code of Conduct in 1995 the FAO Conference made a call to all those involved in the fisheries sector, including both FAO and non-FAO Members, intergovernmental organizations and NGOs, industry and fishers to collaborate in the fulfilment and implementation of the Code's objectives and principles.

¹¹ See Preamble to the Agreement.

¹² As at 1 November 2004. The countries that have accepted the Agreement are: Argentina, Australia, Barbados, Benin, Canada, Chile, Cyprus, Egypt, Georgia, Ghana, Japan, Madagascar, Mauritius, Mexico, Morocco, Myanmar, Norway, Peru, Republic of Korea, St Kitts and Nevis, St Lucia, Seychelles, Sweden, Syrian Arab Republic, Tanzania, United States of America, Uruguay and the European Community.

This call by the Conference has been heeded and is gaining strength. FAO, countries, RFMOs, industry, NGOs and academia have, individually and jointly, initiated activities in line with the Code's principles to facilitate sustainable fisheries. The results of these activities are already apparent in some cases with notable improvements in the way in which some fish stocks are utilized. However, rapid adjustment and change in the fisheries sector, as a consequence of steps taken to implement the Code, are unlikely to result, nor indeed should they be expected. Rather, progress towards implementation of the Code, and the benefits generated from policies and measures adopted by governments to facilitate sustainability, are more likely to yield phased and incremental results.

Food and Agriculture Organization of the United Nations

FAO has a responsibility to globally facilitate the implementation of the Code and to technically support national and regional initiatives towards this end. In this respect, FAO has a critical catalytic role to play in the implementation process but the Organization does not implement the Code *per se*. This point is sometimes not clearly understood, and there is a perception that FAO is *responsible* for the implementation of the Code.

FAO's promotional role focuses on a number of different, but related, activities. These initiatives accord with instructions from FAO's Governing Bodies in relation to supporting the wide dissemination and implementation of the Code. The initiatives include, not in priority order:

- dissemination of text of the Code through FAO's work with governments and civil society. The Code and its guidelines have been distributed in FAO's five official languages. Furthermore, FAO co-operated with other partners to facilitate dissemination of the Code in non-official languages. The Code is available in more than 50 languages making it the most translated FAO document ever.
- FAO worked with the UN Division of Ocean Affairs and Law of the Sea to produce a consolidated document including the Code, 1993 FAO Compliance Agreement, and 1995 UN Fish Stocks Agreement. This document also has a cross-referenced index for the three instruments.
- FAO staff, while undertaking routine duty travel, serve to promote awareness of the Code and its implementation at every opportunity;
- the dissemination of a CD-ROM containing all documents relating to the Code of Conduct;
- FAO Members have been encouraged to accept the 1993 FAO Compliance Agreement. Circular State letters to this effect have been despatched on several occasions. FAO's efforts to urge acceptance of the Agreement continues;
- at all meetings of FAO regional fishery bodies the Code has been addressed. The meetings are utilized as a vehicle for promoting the Code and for obtaining feedback on national initiatives already underway towards implementation, and difficulties being encountered. FAO is also actively promoting the implementation of the Code through non-FAO fishery bodies;
- establishment of an Internet Website on the Fisheries Department Home Page to facilitate public access to the Code of Conduct and the 1993 FAO Compliance Agreement. Some FAO Members have also established sites for their national programmes. The FAO Page has links to these national sites;
- elaboration of FAO technical guidelines to support the Code's implementation. These guidelines are intended to provide practical guidance and advice for policy makers and fisheries managers on how to implement the Code;
- an inter-regional programme of assistance, known as FishCode, to support the Code's implementation in developing countries.
- FAO is working with the UK Government on a major project in 24 West African countries. The project is designed to promote the sustainable livelihoods of poor coastal and riparian countries in Sub-Saharan Africa through the implementation of the Code;

- FAO facilitates regional workshops to disseminate and support the implementation of the Code. These workshops depend on extra-budgetary funding. The Organization also technically supports national Code workshops when this is possible;
- on an ongoing basis FAO assists Members to develop fishery management plans, to improve regulatory frameworks etc, with a view to securing sustainable fisheries. The incorporation of critical elements of the Code into national plans greatly serves to facilitate national implementation , and
- FAO is focusing on a range of other activities that indirectly foster the Code's implementation, and in turn the monitoring of its implementation. These activities include the elaboration of indicators of sustainability for aquaculture and capture fisheries; the strengthening of national regional and global information systems on fishery and aquaculture production systems and resources. FAO also provides assistance to Members in their effort to implement the Code and through its field programme.

An important feature of FAO's work in implementing the Code of Conduct is that it provides a clear, but dynamic framework, in which to focus the Fisheries Department's programme of work and budget. Although FAO has worked for decades on projects and programmes to facilitate better fisheries management, the adoption of the Code provided an umbrella under which all the Department's activities could be pulled together. This situation has encouraged, and indeed led to, enhanced coordination of activities in the Department.

FAO faces a number of constraints with respect to its efforts to promote the implementation of the Code. The constraints affect the pace and extent to which implementation might be facilitated. Two of the more important constraints include the rate of dissemination of the Code and a lack of awareness of it in fishing communities and FAO's inability to secure trust funds to support the inter-regional programme.

Regional initiatives

The Code of Conduct is a global document and as such does not take account of all regional and fishery specificities. Indeed, when the Code was being negotiated FAO and its Members recognized this point. Consequently, it was acknowledged that to meet the particular fishery needs of different regions and fishery sub-sectors (e.g. inland fisheries), regional and sectoral implementation would be desirable. However, such regional and sectoral implementation should not violate the spirit and intent of the Code but rather serve to enhance and strengthen it.

FAO views regional and sectoral implementation in a positive light because it will yield benefits that will, in turn, positively impact implementation. Some of these benefits that are anticipated include:

- a sense of direct participation in the implementation process by stakeholders;
- Identification of specific regional and sectoral problems and priorities, including those relating to different fisheries, gear, management practice, fishery enhancement techniques and aquaculture development;
- identification of additional areas that are not specifically or sufficiently addressed by the Code, when these areas are regionally or sectorally important;
- identification of major 'local' constraints to the Code's implementation together with approaches to address these constraints; and
- elaboration of regional and sectoral regional strategies (including the possibility of preparing technical guidelines) to assist with the implementation of the Code in local languages. This is likely to be very important among fishery communities in developing countries.

At the regional and sectoral levels, both FAO and non-FAO regional fishery bodies (RFBs) have important roles to play in promoting the Code's implementation. The mounting of regional workshops to disseminate information about the Code and launching activities designed to facilitate implementation are considered by FAO and its Members to be key initiatives. It is highly encouraging that non-FAO RFBs, of their own volition, are taking steps to implement parts of the Code.

Regional and sectoral implementation of the Code is hampered, in some instances, by a reluctance of RFBs to embrace the Code and by a failure of countries to implement measures that have been agreed regionally. Moreover, enhanced collaboration among RFBs is being encouraged. In view of the benefits stemming from this collaboration, FAO will continue to facilitate both formal and informal contacts among these bodies.

National activities

A fundamental concept underlying the implementation of the Code is the assumption that governments want better and responsibly managed fisheries, and that they are prepared to take difficult decisions, in the short-term, as a means of attaining longer-term sustainability gains. However, this assumption may be somewhat naive, since governments may have short planning and policy horizons. Under these circumstances, governments may seek to minimize social and economic disruption through their fishery policy interventions, even when it is recognized that such intervention is required to improve conditions in the sector. It is for this reason that technical advice concerning fisheries management and the policy decisions taken by governments concerning management often fail to intermesh.

In implementing the Code of Conduct, FAO encourages national fishery administrations to work with all stakeholders in the sector to promote the changes required towards long-term sustainability.

In large-scale fisheries, industry has a prominent role in implementing the Code. This role focuses on trying to ensure that industry complies with measures adopted. Such compliance will reduce significantly MCS costs, irrespective of whether they are paid for by government or industry itself.

In contrast, in artisanal and small-scale capture fisheries, fishing communities themselves (through community-based approaches to management) and NGOs are encouraged to promote and support the Code's implementation.

In response to COFI directives in 1997 concerning the need for FAO to monitor the implementation of the Code, FAO reported to the Committee in a substantive manner at the 1999, 2001 and 2003 Sessions of COFI. These reports consolidated and analyzed the self-assessment information provided to FAO by its Members.

In the most recent report to COFI in 2003, 105 FAO Members (57 percent of the FAO Membership) responded to the questionnaire. For this report there was a marked increase in reporting by Members that had not responded previously. In their responses Members identified constraints in implementing the Code. These constraints included:

- a lack of political will to support implementation;
- fisheries not being assigned high priority nationally because of their small economic contribution and the fisheries sector being poorly organized;
- open-access fisheries that are not subject to management leading to high levels of overfishing;
- insufficient attention to the development of management plans and the application of the precautionary approach;

- strong social and economic pressures on fisheries including vulnerability to poverty and a lack of alternative employment opportunities for fishing communities;
- inadequate resources (funds, trained personnel, equipment, research capabilities and facilities);
- poor levels of scientific research;
- weak institutional capacity (including poor national inter-agency coordination);
- conflicts between artisanal and industrial fishers;
- poor and inappropriate policy and legal frameworks;
- poorly developed MCS;
- lack of fishers participation in decision making concerning management;
- lack of awareness by stakeholders (including officials) about the Code and what it means for fishing communities leading to a lack of cooperation and irresponsible behaviour;
- persistent IUU fishing;
- a lack of adaptation of the Code to meet local needs;
- insufficient copies of the Code and related instruments for distribution and
- a lack of availability of documents in local languages.

Solutions suggested by Members in their responses to the questionnaire included:

- additional technical support from FAO and the international donor community to strengthen capacity and institutions (including training and the mounting of meetings to disseminate information about the Code to officials and other stakeholders);
- improved national inter-agency cooperation concerning the implementation of the Code;
- expansion of vessel buy-back programmes and industry restructuring arrangements to reduce fishing capacity;
- enhanced research capacity with the possibility of emphasis on twinning arrangements;
- implement plans for the recovery of over-exploited stocks;
- placement of observers on vessels the implementation of better fisheries management that control fishing effort;
- greater emphasis on social and economic aspects of fisheries management;
- initiate policy and legislation reviews to incorporate elements of the Code;
- improve MCS systems;
- promote alternative employment opportunities for fishers;
- translation of the Code and related instruments into local languages so as to deepen dissemination and awareness building;
- ensure that adequate copies of the Code are available in country;
- campaigns to create greater awareness about the Code to improve education and outreach including stakeholders to better organize themselves;
- develop technical guidelines for small-scale fisheries management;
- support for stronger NGOs involvement in the implementation of the Code, and
- facilitation of cooperation among fishers and national and regional organizations concerned with fisheries management.

Importantly all the reports tabled at COFI have noted that training and capacity building remain major preoccupations and priorities in most developing countries with respect to the implementation of the Code. Countries have also indicated that the lack of financial resources constrain implementation.

In considering national efforts to implement the Code, COFI has emphasized that the Code is an important basic instrument to facilitate sustainable utilization of fishery resources and hence to contribute to food security and wellbeing of people. Among other proposals, COFI requested FAO to assist further with the implementation of the Code through the provision of Code-related materials and through organizing workshops. Attention has been drawn to the large number of illiterate fishers in

many countries and it has been suggested that suitable vehicles should be developed, such as audio-visual material, for informing such people of the Code and its objectives. FAO has attempted to address this issue through the preparation of a video and documents in non-technical language.

CONCLUSION

The 1995 FAO Code of Conduct for Responsible Fisheries seeks to facilitate change and adjustment in the fisheries sector as a means of ensuring that resources are utilized in a long-term sustainable manner. Comprehensive and integrated in nature, and intended to be implemented in a holistic manner, the Code addresses all aspects of fishery practice. While not only recognizing that the implementation of the Code must take account of the inter-relatedness of the various sub-sectors of the fisheries sector, the Code underscores the critical nutritional, economic, social, environmental and culturally important role fisheries play in artisanal and industrial fishing communities.

The effective implementation of the Code is a major challenge for all stakeholders in the sector. Implementation requires that problems are realistically assessed and national policies put in place to deal with them. In many cases these tasks involve difficult policy decisions for governments, especially where it is necessary to limit or reduce levels of fishing effort. In developing countries a lack of technical capacity hinders efforts to address issues of sustainability, and bilateral and multilateral technical assistance will need to be continued, and boosted, in order to strengthen capacity.

The implementation of the Code should not be viewed in isolation. Indeed, as noted above, it serves to complement other recently concluded international instruments – notably the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement, the IPOAs and the Strategy. Indeed, from a fisheries conservation and management perspective these instruments might be best seen as a package. The successful implementation of these instruments should go a long way to addressing, if not resolving, most of the major problems that lead to unsustainable practices in the fisheries sector.

The implementation of the Code will be improved if:

- additional technical guidelines to support the implementation of the Code are prepared and translated into the official FAO and other languages. Translation of guidelines into local languages by NGOs and other stakeholders is encouraged as a means of transmitting this information to fishing communities. The type of information contained in the guidelines may need to be reviewed so that they contain more action-orientated activities in order to achieve the Code's objectives;
- additional extra-budgetary funding is available to support implementation of the Code;
- the Code's principles and articles are articulated in national fisheries policy, and, as appropriate, legislation;
- more effective monitoring indicators for the Code at the national, regional and global levels are elaborated by FAO in consultation with its partners. This will permit better assessments to be made as to the extent of the Code's implementation and its impact on sustainability.

FAO is in a position to focus on, and influence, some of these issues but efforts by governments and stakeholders are also required.

APPENDIX G

**2001 FAO INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER
AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING:
BACKGROUND AND PROGRESS TOWARDS IMPLEMENTATION**

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INTRODUCTION

The international community has identified illegal, unreported and unregulated (IUU) fishing to be a major impediment to the achievement of long-term sustainable fisheries as called for, *inter alia*, in Chapter 17 of Agenda 21,¹³ the 1995 FAO Code of Conduct for Responsible Fisheries,¹⁴ the UN Millennium Development Goals¹⁵ and the Johannesburg Plan of Implementation.¹⁶ This is because the activities of IUU fishers undermine national and regional efforts to implement management measures that are designed to promote responsible fisheries. This is an especially grave situation given that FAO in 2002 estimated that some 75 percent of world fisheries are already being fully exploited, overexploited or depleted.¹⁷

IUU fishing is virtually a universal fishing problem that occurs in marine and inland capture fisheries. Despite common misunderstandings about IUU fishing, it is not confined to any particular group of fishers, though experience shows that IUU fishing is widely practiced in those fisheries – both within exclusive economic zones (EEZs) and on the high seas – where the prospects for apprehension are lowest and by fishers that operate vessels that are not subject to effective flag State control. This means that many countries, because of their limited means to implement effective measures in their EEZs to regulate legitimate and illegitimate fishing activities, are subject to re-occurring IUU fishing by both national and foreign fleets.

The work of some regional fishery management organizations or arrangements (RFMOs), which are the cornerstones for the promotion of international cooperation in fisheries management, report that IUU fishing in their convention areas by both member and non-member flag vessels is widespread and handicaps their efforts to rationally manage fisheries. This is critical because if RFMOs are not in a position to fulfil their mandates with respect to management, the outlook for the sustainable utilization of many of the world's commercially important fish stocks is bleak.

The international community further recognizes that IUU fishing is symptomatic of other problems facing the fisheries sector. These problems need to be resolved in a timely manner if IUU fishing is to be prevented, deterred and eliminated. These problems include, *inter alia*:

- ineffective fisheries management that fails to regulate fishery inputs and outputs;
- excess fleet capacity in some fisheries and the “pushing out” and re-flagging of vessels from managed fisheries as regulations tighten in these fisheries to other fisheries that are unmanaged or poorly managed. Often this process involves a migration of displaced fleet capacity¹⁸;

¹³ Adopted in 1992 by the United Nations Conference on Environment and Development (UNCED).

¹⁴ Adopted in 1995 by the Twenty-eighth Session of the FAO Conference.

¹⁵ Adopted in 2000 by the United Nations General Assembly at its Fifty-fifth Session.

¹⁶ Adopted in 2002 by the World Summit on Sustainable Development (WSSD).

¹⁷ FAO. 2002. The State of World Fisheries and Aquaculture.

¹⁸ This point was highlighted at the Twenty-fifth Session of the Committee on Fisheries. Many countries pointed out that IUU fishing, often by displaced vessels, undermines efforts to sustainably manage fisheries at both national and regional levels.

- masking of the real economic costs of vessel construction and fishing operations through the payment of fisheries-related subsidies; and
- consistent failure by many countries, and in particular some countries that operate open registries for fishing vessels, to meet their international obligations with respect to the control of fishing vessels flying their flags.

There are no global data on the full extent and cost of IUU fishing. The nature of this type of fishing does not readily permit global estimation with any significant degree of confidence. However, some RFMOs are working to assess the regional extent and impacts of IUU fishing. In one case, for example, it is estimated by an RFMO that catches of one commercially-valuable species could be exceeding permitted catch levels by nearly 300 percent.

As a consequence of RFMO assessments of the scope and effects of IUU fishing, it should be possible to:

- consolidate a broader, though incomplete, perspective on IUU fishing across regions; and
- determine more accurately how such fishing is hindering RFMOs from fulfilling their mandates and achieving more responsible fisheries.

It is acknowledged that the implementation of measures by RFMOs to combat IUU fishing are only as effective as their members permit them to be because RFMOs are not supra-national entities. A failure by RFMOs to effectively address IUU fishing reflects, to some degree, a lack of political will¹⁹ by their members to take concerted and calculated steps to control fishing vessels that engage in activities that undermine the work of RFMOs and thereby render their fisheries management efforts sub-optimal.²⁰

A further serious and moral consideration relating to IUU fishing is that such fishing is contributing to food insecurity in some coastal and inland fishing communities that are heavily dependent on fish for food and revenue derived from the sale of fishing licences and from fish exports. While this is not a recent phenomenon in some regions, information available to FAO from country reports and discussions in fora such as the FAO Committee on Fisheries (COFI) indicates that the incidence and depth of IUU fishing is increasing, sometimes at the expense of impoverished small-scale fishers.

It has also been noted by some countries that IUU fishing seriously prejudices the interests of commercial fishers who abide by their national and regional authorizations to fish.²¹ This occurs because IUU fishers do not face the same constraints in terms of operating costs, catch limits, etc, nor do IUU fishers implement the same safety standards for fishing and support vessels and crews as is required by their counterparts who do not engage in IUU fishing.

INTERNATIONAL ACTION TO COMBAT IUU FISHING

FAO has been at the forefront of international efforts and action to address IUU fishing. The Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries²² states, *inter alia*, that countries would develop a global plan of action to deal effectively with all forms of IUU fishing including fishing vessels flying "flags of convenience". This seminal Declaration set the

¹⁹ A lack of political will to take action to curb IUU fishing is a major constraint to dealing effectively with this type of fishing. Moreover, there is a tendency for some States to take refuge behind national policies and legislation as a means of avoiding or deferring commitments that are necessary to combat IUU fishing.

²⁰ There is a growing impatience with diplomatic approaches to IUU fishing and the members of some RFMOs are contemplating the adoption of "name and shame" policies for vessels and flags that are perpetual IUU fishing offenders.

²¹ Some governments are inclining to the view that IUU fishing is no longer a "soft or administrative offence" and that such fishing should be regarded as a more serious offence. This notion is being promulgated with the view that those fishers who engage in illegal and unreported fishing should be subject to more severe sanctions than at the present time.

²² Adopted in 1999 by the FAO Ministerial Meeting on Fisheries.

international stage for efforts to prevent, deter and eliminate IUU fishing and provided the impetus and framework for FAO to pursue a structured suite of activities relating to the elaboration of an IPOA–IUU. From 1999 onwards, Sessions of the FAO Committee on Fisheries (COFI) and the FAO Council have discussed and reviewed developments concerning IUU fishing, culminating in the endorsement of the IPOA–IUU by the Hundred and Twentieth Session of the FAO Council in June 2001.

Following the adoption of the Rome Declaration on Responsible Fisheries and the IPOA–IUU, growing international concern about IUU fishing led the issue to be addressed by United Nations General Assembly (UNGA). Indeed, IUU fishing has been considered each year since 2000 in UNGA resolutions.²³ These resolutions have, *inter alia*:

- condemned IUU fishing in all its forms;
- called on States to implement full and effective flag State control over vessels flying their flags;
- encouraged bilateral and regional cooperation to combat IUU fishing;
- urged States to address IUU fishing and to implement the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) through the elaboration of national plans of action (NPOAs) by 2004, as called for in the IPOA–IUU; and
- encouraged the implementation of effective monitoring, control and surveillance (MCS) and vessel monitoring systems (VMS) as a means of combating IUU fishing.

Within the ambit of the UNGA, IUU fishing has also been reviewed by all sessions of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) since its inception in 2000. The reports of these meetings, which are forwarded annually to the UNGA for consideration, have noted, *inter alia*:

- IUU fishing presents an urgent and serious challenge to the international community if sustainable fisheries are to be achieved;
- the necessity to secure a global consensus on reversing declines in fish stocks and taking coordinated steps to address overfishing and the continuing problem of IUU fishing;
- the significance of FAO's work in elaborating and promoting the implementation of the IPOA–IUU;
- the requirement for all States and RFMOs to take action to implement the IPOA–IUU;
- the need for effective flag State control if IUU fishing is to be combated;
- the importance of further examining and clarifying the role of the 'genuine link' in relation to the duty of flag States to exercise control over vessels flying their flags; and
- the role of port States in preventing, deterring and eliminating IUU fishing and encouraged FAO to continue its work in promoting port State measures to combat IUU fishing.

With a sharp focus on fisheries issues and the need to secure sustainable outcomes in the fisheries sector as promulgated at the United Nations Conference on Environment and Development (UNCED),²⁴ the World Summit on Sustainable Development (WSSD) addressed, *inter alia*, the scope and effects of IUU fishing. The Johannesburg Plan of Implementation, which also reflects certain decisions adopted by COFI, called for States to implement the 1995 FAO Code of Conduct for Responsible Fisheries and its related IPOAs and guidelines. Significantly, the Johannesburg Plan of Implementation²⁵ urges that States implement by 2004 national and, where appropriate, regional plans of action to give effect to the IPOA–IUU.

²³ UNGA resolutions A/RES/55/7 (2000); A/RES/55/8 (2000); A/RES/56/12 (2001); A/RES/57/141 (2002), and A/RES/57/142 (2002).

²⁴ Agenda 21 provides the principles and a programme of action for achieving sustainable development.

²⁵ The Plan also specifies deadlines for five fisheries issues including the development and implementation of national and regional plans of action to put into effect the IPOA for the management of fishing capacity by 2005; the establishment of

Furthermore, to enhance the implementation of the IPOA–IUU and to reduce the incidence of IUU fishing and fishing fleet overcapacity, the Johannesburg Plan of Action urged States to establish effective MCS systems for fishing vessels, including by flag States and to eliminate subsidies paid to the fishing industry that contribute to IUU fishing.

At the regional level, as noted above, many RFMOs and other organizations that do not have specific fisheries management functions are directing attention to IUU fishing. In addition to keeping IUU fishing under review and heightening their Members' awareness about the problem, some RFMOs and international organizations have discussed, made recommendations and passed resolutions on IUU fishing as a means of condemning and combating it. Some RFMOs, in their efforts to combat IUU fishing, have taken measures, *inter alia*, to:

- encourage non-Members to become parties to their organizations;
- implement new, and strengthen existing, policies, procedures and mandates;²⁶
- develop black or white lists of vessels with a view to gaining the greater cooperation of flag States;
- implement catch certification and traceability controls on catch so that the marketing of fish taken by fishers who are known to have engaged in IUU fishing will be made more difficult, if not blocked completely.
- RFMOs that have addressed IUU fishing, made recommendations or passed resolutions directed at preventing, deterring and eliminating IUU fishing include, *inter alia*, the Commission for the Conservation of Antarctic Marine Living Resources, the Indian Ocean Tuna Commission, the International Convention for the Conservation of Atlantic Tunas, the North-East Atlantic Fisheries Commission, the Northwest Atlantic Fisheries Organization, and the Preparatory Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.²⁷

The need to address IUU fishing on all fronts and in all its forms continues to be a major focus of international attention. The international community acknowledges the gravity of such fishing and its environmental, economic and social consequences.

IMPLEMENTATION OF THE IPOA–IUU

IUU fishing flourishes primarily because many States fail to meet their obligations under international law with respect to flag State control. In a world where States exercised effective control over fishing vessels flying their flags the incidence of IUU fishing would be greatly reduced. However, States are not meeting their flag State obligations either because they are unable or unwilling to do so. This situation has necessitated that the international community look beyond conventional solutions to combat IUU fishing and adopt and implement a wider and more innovative suite of measures that are important secondary defences when flag States do not meet their international obligations. Indeed, this was one of the fundamental reasons why FAO Members opted to elaborate the IPOA–IUU.

representative networks of marine protected areas by 2012; and the application of the ecosystem approach to fisheries by 2010; the restoration of depleted stocks not later than 2015.

²⁶ In paragraph 80 of the IPOA–IUU, measures that States might adopt through RFMOs to take action to strengthen and develop innovative ways to combat IUU fishing are proposed. These measures include institutional strengthening, development of compliance measures, mandatory reporting, cooperation in the exchange of information, development and maintenance of records of fishing vessels, using trade information to monitor IUU fishing, MCS, boarding and inspection schemes, observer programmes, market-related measures, definition of circumstances in which vessels are deemed to have engaged in IUU fishing, education and public awareness programmes, development of action plans, examination of chartering arrangements, exchange of information on an annual basis among RFMOs, estimation of the extent, magnitude and character of IUU fishing in the convention area, records of vessels authorized to fish and records of vessels engaged in IUU fishing.

²⁷ Some RFMOs have also adopted resolutions relating to fishing by non-parties on stocks subject to management with a view to seeking their cooperation to halt their IUU fishing activities.

The IPOA–IUU is a voluntary instrument concluded within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries. The IPOA–IUU is a comprehensive instrument that may be viewed as a ‘toolbox’ whereby a State can ‘mix and match’ or ‘tailor’ measures contained in the IPOA to meet its particular IUU fishing needs and challenges. In a flexible way, and as appropriate, the IPOA–IUU urges that measures be taken by:

- all States (international instruments, national legislation, NPOAs, cooperation between States, publicity and technical capacity and resources);
- flag States (fishing vessel registration, records of fishing vessels and authorizations to fish), coastal States; and
- port States.

In addition, the IPOA–IUU addresses: internationally agreed market-related measures; research; the role of RFMOs in combating IUU fishing; the special requirements of developing countries; reporting on progress with the implementation of the IPOA–IUU; and the role of FAO.

In late 2002, many countries reported to FAO that IUU fishing impacts their efforts to achieve sustainable fisheries. Moreover, about one third of the FAO Membership stated that such fishing is problematic and is hampering their efforts to implement the 1995 FAO Code of Conduct for Responsible Fisheries.

In their reporting, Members advised FAO that IUU fishing occurs in both marine and freshwater capture fisheries, but that the extent and full impact of IUU fishing is not well known in all cases. In addition, Members reported on the types of IUU fishing being encountered in their fisheries. Such types of fishing include:

- unauthorized incursions into EEZs and inshore areas especially by foreign fishing vessels. Some Members noted that such incursions are adversely impacting production by small-scale fishers;
- unauthorized fishing in closed and restricted areas;
- incomplete catch and effort reporting by industrial fleets. The under-reporting of catches was identified as a significant problem;
- lack of compliance by fishers with the terms of their fishing authorization;
- use of banned fishing gears;
- fishing with explosives and poisons; and
- use of dams for the illegal netting of fish in inland fisheries.

In their efforts to curb IUU fishing, Members have taken measures to:²⁸

- strengthen the functions of RFMOs;
- accept and ratify international instruments such as the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement;
- strength policy and legislation to conform with the IPOA–IUU including provisions for tougher vessel licensing and the deregistration, decommissioning and scrapping of vessels that have engaged in IUU fishing;
- improve mechanisms to more effectively address flag State and port State responsibilities;
- implement measures to give greater control over nationals working on fishing vessels of any flag State;
- implement measures to against “flag of convenience vessels”;

²⁸ This information is taken from written information provided to FAO in 2002 and from discussions at the Twenty-fifth Session of the Committee on Fisheries. It should be noted that this long list of measures is largely confined to a limited number of countries.

- impose higher penalties and imprisonment terms for IUU fishers;
- enhance MCS and the mandatory implementation of VMS;
- improve vessel observers' programmes;
- seize and destroy catches resulting from IUU fishing so that fishers will not benefit from their illicit activities;
- seize and destroy fishing gear belonging to fishers when it is known that their vessels have engaged in IUU fishing;
- implement more comprehensive catch reporting;
- strengthen regional cooperation, through RFMOs, to reduce avenues for IUU fishing;
- introduce catch certification schemes to trace the origin of fish and prohibition of certain landings if there are reasonable grounds to believe that the fish has been taken by IUU fishers; and
- build awareness among stakeholders, including fishers' associations, concerning the extent and detrimental effects of IUU fishing.

Forty-seven Members indicated to FAO that they had taken steps towards developing and implementing their NPOAs.²⁹ Twenty-three Members indicated that they would finalize their NPOAs in the near future while a further 18 Members reported that their NPOAs would be completed before the 2004 deadline.³⁰

For monitoring and reporting on progress with the implementation of the IPOA–IUU, Members, RFMOs and non-governmental organizations (NGOs) are invited to report to FAO every two years in the context of their reporting relating to the implementation of the 1995 FAO Code of Conduct for Responsible Fisheries. An analysis of the information provided by respondents is important in that it:

- enables FAO to assess and highlight difficulties being encountered by countries in their implementation efforts, and
- indicates priorities and development assistance needs so that donors might more effectively channel and target assistance to priority areas identified by countries.

Based on information available to FAO it is concluded that the rate at which IUU fishing NPOAs are being developed and implemented falls short of the desired pace necessary to effectively combat such fishing. Developing countries, in particular, are experiencing difficulties in complying with the implementation deadline because of a limited technical capacity and, in some cases, financial means.

In assessing progress towards the development and implementation of NPOAs to combat IUU fishing it should be noted that a period of three years, as specified in the IPOA–IUU, is a relatively limited timeframe within which to undertake the required background work, elaborate a draft NPOA, have it cleared through domestic processes and then commence implementation. It should also be recognized that since UNCED there have been a number of important international fishery instruments (including several that have been adopted in regions) that require considerable national assessment and in turn, implementation. This situation has led to 'implementation overload', for both developing and developed countries. Taking a broader perspective on the implementation of all post-UNCED fishery instruments and the national burden associated with it, delays in implementation should be anticipated. Nonetheless, given the importance of IUU fishing and its effects on sustainability, every effort should be to combat such fishing as a matter of urgency.

²⁹ As provided for in paragraphs 25 to 27 of the IPOA–IUU.

³⁰ This deadline is June 2004, three years after the adoption of the IPOA–IUU by the FAO Council.

CAPACITY BUILDING AND INSTITUTIONAL STRENGTHENING TO COMBAT IUU FISHING

The serious effects of IUU fishing on responsible fisheries prompted countries, in adopting the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries, to take action to elaborate an IPOA–IUU to deal effectively with such fishing. The elaboration and implementation of NPOAs, which give effect to the IPOA–IUU, presupposes that countries have the technical and financial means to do so. The IPOA–IUU recognizes³¹ the special requirements of developing countries, in particular the least development among them and small island developing States, in terms of the financial, technical and other assistance needed to meet their commitments under the IPOA–IUU and other obligations under international law.

The challenges presented by IUU fishing have generated bilateral and multilateral responses to assist developing countries enhance their capacities to address these challenges. Bilateral assistance, very often of a practical and ‘hands on’ nature, has been provided to countries in a number of key areas including, *inter alia*, MCS and VMS training, improving vessel boarding and inspection procedures, enhancing observer programmes, implementing catch documentation schemes and strengthening port inspection procedures. Multilateral cooperation is also growing, especially in MCS-related areas concerning the real-time sharing of information, through such initiatives as the International MCS Network. These bilateral or multilateral strategic initiatives are likely to be maintained, expanded and deepened through time as a means of enhancing national capacities in developing countries. It is anticipated that through time these initiatives will assist in closing weaker ‘links’ in the IUU fishing chain that IUU fishers seek to exploit.

FAO targets activities in developing countries so as to build capacity and strengthen institutions in promoting long-term sustainable fisheries. Information available to FAO concerning the implementation of the IPOA–IUU indicates that many developing Members are in need of technical assistance to enhance their capacities to elaborate and implement their NPOAs.

The IPOA–IUU proposes that FAO, in cooperation with relevant international financial institutions and mechanisms (IFIs), should assist developing countries implement the IPOA–IUU. The proposed FAO activities include the:

- review and revision of national legislation;
- improvement and harmonization of fisheries and related data collection;
- strengthening of regional institutions; and
- strengthening and enhancing of integrated MCS systems, including satellite vessels monitoring systems (VMS).

FAO has been providing assistance to developing countries in these four areas as part of its Regular Programme and trust-fund activities. FAO has:

- implemented a programme of assistance for developing countries to review and revise national fisheries and related legislation. Since 1995 this programme has also focussed on incorporating, as appropriate, the principles and requirements of post-UNCED fishery instruments into relevant fisheries laws.

³¹ Part V of the IPOA–IUU.

- assisted developing countries upgrade their data collection, processing, reporting and harmonization capabilities.³² Technical assistance at national and regional levels is a significant component of FAO's Programme of Work and Budget involving both normative and field programme activities. Outputs of normative activities include technical documents on statistical methodology and guidelines for data collection. Field programme activities involve project formulation and implementation, technical backstopping and organization of training courses and workshops. FAO is also involved in the promotion of cost-effective and sustainable approaches and techniques for the collection of fishery statistical data.
- encouraged RFMOs to enhance their capacities to better fulfil their mandates and to this end has taken steps to encourage dialogue and collaboration between them. Where fisheries organizations do not have mandates to manage fish stocks, FAO fosters cooperation among their members with a view to stimulating and strengthening bilateral and regional fisheries activities; and
- promoted the implementation of MCS and VMS systems in countries through policy and practical training. Capacity building in this area stresses the central role of MCS in fisheries management and the different VMS systems that might be deployed. In some sub-regions agreement has been reached on the compatibility of national MCS and VMS systems. Such compatibility also requires that there be harmonized fisheries legislation and strengthened international cooperation through the exchange of real-time and other information.

The IPOA–IUU further calls on FAO to:

- collect information and data for further analysis aimed at identifying factors and causes contributing to IUU fishing;
- support the development of national and regional plans to combat IUU fishing;
- collaborate with international agencies and, in particular, the International Maritime Organization (IMO), to further investigate the issue of IUU fishing, in particular, by strengthening measures by port States;
- convene a consultation on the implementation of catch certification and documentation requirements; and
- investigate the benefits of establishing and maintaining global databases, including but not limited to, information provided for in Article VI (Exchange of Information) in the 1993 FAO Compliance Agreement.

Since the FAO Council endorsement of the IPOA–IUU, FAO has undertaken, and is undertaking, activities designed to heighten international awareness about the scope and impact of IUU fishing, its adverse impacts on sustainable fisheries and the management efforts of RFMOs and as a means of supporting initiatives to combat such fishing. These activities include the:

- translation and wide dissemination of the IPOA–IUU;
- preparation, translation and wide distribution of comprehensive technical guidelines to support the implementation of the IPOA–IUU;
- preparation, translation and distribution of a simple language publication entitled “Stopping IUU Fishing”,³³

³² Collection of basic data on catches, fishing effort and prices provide important indicators for a wide variety of fisheries applications. In addition, more detailed data (fishing vessels, gear and operations; socio-economic data; etc.) from regularly conducted fishery surveys are an important source of fishery information of wide utility and scope.

³³ This document is designed to sensitize fishers and fishing communities to the effects of IUU fishing. FAO, on a request basis, also prepares papers for a general readership together with and inputs for FAO and non-FAO training courses concerning IUU fishing and how problems flowing from such fishing might be addressed through the implementation of the IPOA–IUU.

- cooperation with RFMOs in convening an Expert Consultation of Regional Fishery Bodies on Harmonization Certification;³⁴
- convening an Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing.³⁵ The documents from this Consultation will form the basis for follow-up in 2004 when an FAO Technical Consultation on Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing will be convened. It will address substantive issues relating to the role of the port State and, as appropriate, principles and guidelines for the establishment of regional memoranda of understanding on port State measures to prevent, deter and eliminate IUU fishing;
- convening an Expert Consultation on Fishing Vessels Operating under Open Registries and their Impact on Illegal, Unreported and Unregulated Fishing, in cooperation with the Government of the United States of America;³⁶
- mounting regional workshops to assist developing countries elaborate NPOAs; and
- assisting developing countries, on a request basis, to assess national situations with respect to IUU fishing and the development of proposed courses of action to address it.

Recognizing the linkage between IUU fishing and fishing fleet overcapacity, FAO convened a Technical Consultation to review progress with, and promote the full implementation of, the IPOA–IUU and the International Plan of Action for the Management of Fishing Capacity.³⁷ The major recommendations adopted by the Technical Consultation are in Annex 1.

A further and fertile area for work that might be initiated in countries as a means of combating IUU fishing is the development of dialogue and partnerships between governments and industry. Some countries are already focussing on such partnerships to encourage industry to assist in solving IUU fishing problems. This development is highly positive and should be encouraged.

As opportunities present themselves FAO also participates in international and national meetings to disseminate information about the implementation of the IPOA–IUU and the steps that countries should take to develop NPOAs and to combat IUU fishing. This is an important means of sensitizing stakeholders about their respective roles in the implementation process, forging and bolstering partnerships and promoting transparency.

CONCLUSION

IUU fishing occurs in all marine and inland capture fisheries. It is a severe problem in many fisheries because it undermines the capacity of national administrations and RFMOs to sustainably manage fisheries. It is for this reason that the international community has given high priority to combating IUU fishing wherever it occurs and in all of its forms.

FAO has taken a leading role in the international action to prevent, deter and eliminate IUU fishing. At the request of its Members FAO in 2001 concluded an international plan of action to address such fishing. Since then IUU fishing and the need to effectively implement the IPOA–IUU has been considered by all major fishery meetings, RFMOs, the UNGA and WSSD.

³⁴ This meeting was held in La Jolla, USA in January 2002.

³⁵ Held at FAO Headquarters, Rome, Italy from 4 to 6 November 2002. The IMO participated in this Consultation. FAO also maintains a dialogue with IMO on a broad range of fisheries-related matters.

³⁶ The objectives of the Conference, convened in Miami, USA, from 23 to 25 September 2003, are (i) to raise awareness among flag States of IUU fishing problems associated with the operation of open registries for fishing vessels and (ii) identify modalities through which flag States can give effect to measures to prevent, deter and eliminate IUU fishing.

³⁷ The Consultation was held at FAO Headquarters, Rome, Italy in June 2004.

The implementation of the IPOA–IUU requires that NPOAs–IUU be elaborated and put in place. This places an additional burden on fishery administrations and RFMOs, many of which are already suffering from “implementation fatigue”. Significantly, the IPOA–IUU recognizes the need to assist developing countries meet the requirements of the international plan through its provisions relating to the special requirements of developing States.

IUU fishing is not a new phenomenon. It has plagued fisheries management and deprived resources owners of revenue for decades. However, the incidence of IUU fishing is increasing as:

- more fish stocks decline;
- tighter fisheries management arrangements are introduced;
- MCS and VMS are strengthened;
- more stringent port State control measures are introduced;
- countries move to enact measures relating to the control over nationals working on fishing vessels, irrespective of where the vessels are fishing or the flags they fly;
- RFMOs review their mandates pertaining to IUU fishing and its associated problems;
- countries and RFMOs start to develop listings of IUU fishing vessels and exchange more real time information (e.g. through the MCS International Net work) on fishing infringements and the operation of rogue IUU fishing vessels; and
- prices for scarcer fish rise (e.g. cod, halibut etc).

These trends are unlikely to change in the near future. This means that IUU fishing will continue at levels that undermine efforts to implement responsible and sustainable fisheries practices. Vigilance and closer international cooperation is needed at all levels if IUU fishing is to be prevented, deterred and eliminated as foreseen in the IPOA–IUU.

Major Recommendations of the Technical Consultation

The Consultation reaffirmed the importance of the Resolution “Progress Report on Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing” adopted last year at the FAO Conference (6/2003) and identified the following recommendations for consideration by the 26th COFI 2005 and the following FAO Ministerial Meeting on Fisheries to ensure effective and full implementation of the resolution as well as IPOA–IUU and IPOA-capacity.

1. to reaffirm the importance of the paragraph 12 of the resolution and to apply this paragraph also to implementation of IPOA-capacity, in particular taking account of the needs
 - to ensure full utilization of possible financial and technical sources including relevant FAO programmes, bilateral fishery assistance and the Fund established pursuant to Part VII of the 1995 UN Fish Stocks Agreement for the enhancement of necessary capacities of evaluation of stocks, their sustainable management and their control
 - to invite FAO to reinforce its assistance to developing countries for formulation and implementation of their fisheries management and development policies and definition of their specific needs
 - to invite States whose nationals have fishing activities in developing countries’ waters to assure the cooperation in partnership with those countries
2. to promote cooperation and harmonization of minimum standards among coastal States at a regional level where appropriate for sustainable management of shared fish stocks and invite FAO to explore a possible use of regional coordinators in FAO programmes for such promotion
3. to invite States, either directly, through RFMOs, through other regional or sub-regional arrangements, to develop measures to control flagging and re-flagging of fishing vessels to flag States not duly fulfilling their obligations in accordance with the relevant provisions of the 1995 UN Fish Stocks Agreement, the 1993 FAO Compliance Agreement or additional requirements of such RFMOs or regional arrangements or duties deriving from relevant IPOAs.
4. to request States either directly, through RFMOs, through other regional or subregional arrangements, to develop measures to control and monitor transshipment of catches at sea.
5. to urge FAO and all Parties of the 1993 FAO Compliance Agreement to implement promptly the Article VI of the Agreement and all non-Parties to take actions consistent with the Article immediately
6. to request RFMOs that have not already done so to consider, as a matter of priority, the assessment of capacity and the development and implementation of capacity management schemes in conjunction with other appropriate management measures for fisheries under their purview, taking into account all relevant factors and in a manner consistent with the rights and obligations of all states under international law.
7. in parallel to implementation of paragraph 10 of the resolution, to request FAO to study and assess fishery management aspect of the “genuine link” issue as invited by UNGA Resolution 58-240 as a matter of priority, in particular to determine beneficial ownership of fishing vessels used in IUU fishing operations

8. in recognition of the range of work being undertaken by various RFMOs on the IUU fishing and over-capacity issues, call on the FAO to promote coordination on such work, to establish a database of the available information including any available list of IUU vessels identified and publicized by RFMOs and to make information on IUU fishing available through the FAO Fisheries internet site
9. to invite the FAO to integrate and analyze information and data regarding IUU fishing and fishing capacity from multiple sources, and to identify information and data gaps, in order to develop a global picture of IUU fishing and over-capacity.
10. to recommend that RFMOs consider invitation of third party expert auditors to review and provide recommendations and expert advice with respect both to the range of conservation and management measures adopted by the RFMO and to the effective implementation of these measures.
11. to encourage States to take all necessary steps to ensure that state agencies involved in the registration of fishing vessels and the authorisation of the importation and exportation of fish and fish products co-ordinate their activities with a view to identifying and closing gaps which may aid IUU fishing and the trade in fish harvested and fish products produced as a result of IUU fishing.
12. to invite COFI to make sure that the obligations in Article 48 of the IPOA-capacity and in Article 93 in the IPOA-IUU are fully complied with. To that end, it is necessary to assess the value of the national plans of action in relation to their effects on fisheries, to promote better fisheries practices and to ensure that the required reduction of fishing mortality on targeted fish stocks will be achieved in due time.
13. request States to review the sanctions against IUU fishing available under their national laws in order to ensure that such sanctions function as a sufficient deterrent to IUU fishing wherever it occurs, taking account of all relevant information including available guidance for such review.
14. to recommend that RFMOs adopt effective measures to enhance compliance by contracting parties to RFMOs, pursuant to paragraph 84 of the IPOA-IUU.
15. in conformity with paragraph 25 of the IPOA-IUU, encourage all States and all interested stakeholders including industry, fishing communities and non-governmental organizations to implement the national plans of action as soon as possible, and to actively participate, with the full support of FAO, in the international network of cooperation and coordination of the monitoring, control and surveillance of fishing activities, in accordance with resolutions 28, 28.1 and 28.2 of the IPOA-IUU.
16. invite State to collect, exchange and disclose to the extent possible under domestic law, information on the activities of international business entities such as trading companies undermining effectiveness of the IPOAs so that the concerned States and fishing entities can take appropriate cooperative actions to prevent such activities
17. to encourage all States either directly through RFMOs through other regional and subregional organizations and in conformity with Section II of the IPOA-capacity, to implement the national plans of action as soon as possible taking due account of the special requirements of developing countries including those for small-scale fisheries.

NATIONAL PLAN OF ACTION CASE STUDY: A CONTINENTAL STATE

1. GALACTIAN FISHING INDUSTRY

The fishing industry in Galactia, a developing coastal State bordering the Atlantic Ocean, is based on resources from the marine and, to a lesser extent, inland sector.

1.1 The inland sector

The main sources of inland fisheries – entirely traditional or artisanal – are the Great Vegan Lake, reservoirs and fish ponds. Inland fishing employs around 85,000 fishers and traders, and most of Galactia’s small inland fishing boats - around 15 000 – operate on the Great Vegan Lake, most of them without engines. The annual production of inland fisheries is about 16 per cent of the annual total domestic production, with prices affected mostly by the quality and quantity of the fish.

There has been rapid expansion of the population of introduced fish in the Great Vegan Lake, locally referred to as “the Saviour”, and the fishery it supports. This has led to many expressions of alarm about the future of the lacustrine ecosystem and the sustainability of the resource.

The Saviour Fish, together with two other species, make up most of the total catch composition of fish from the Great Vegan Lake. The Saviour Fish has a high export value, with a significant export market being member countries of a regional economic integration organisation (REIO).

Non-Galactian fishers from the two other countries bordering the Great Vegan Lake frequently fish illegally in Galactian waters and land the fish in their home countries both for consumption and export.

Data on effort in terms of numbers of boats, fishers, nets or fishing days are somewhat fragmentary and weak; catch statistics are usually recorded at the main marketing centres on the Great Vegan Lake. The difficulties involved with the collection, analysis and reporting of catch, effort, price and related data for inland fisheries have been well known for some time. While repeated attempts have been made to resolve them, there have generally been few long-lasting effects. Monitoring and reporting systems have remained weak, not so much for lack of knowing what needs to be done but for lack of funds, equipment and trained and committed personnel.

Of the three countries bordering the Lake, Galactia has the most complete monitoring and reporting system, and it indicates a trend towards increasing effort. The fishing pressure is affecting juvenile as well as adult stock components in a situation that is already unstable and in need of a strong precautionary approach. Because of the value of Saviour Fish for export, poorer operators stand to be displaced from the fishery, and consumer prices for table fish are tending to spiral upward.

Due to the interrelationship of the three major species of fish in the Great Vegan Lake, it is believed that the best form of management is gear selectivity. The non-Galactian fishers often use gear that is not adequately selective, and tend not to report catch or effort.

One of Galactia’s neighbouring countries has played a leading role in the export trade for Saviour Fish, due largely to favourable geographical and infrastructural circumstances. But overcapacity now exists in that country, with ramifications for Galactian fish-marketing and distribution patterns that could be disruptive to Galactia’s national economic interests.

A concern is the future of the Great Vegan Lake ecosystem. In recent years, there have been changes in water quality, marked by increasing eutrophication and the development of an anoxic layer at lower depths of the water column. This has been brought on by a range of factors, including chemical pollution, sedimentation and runoff of deleterious substances from logging operations. In addition, the rapid colonization by the water-hyacinth has been ubiquitous, with its mats often choking sheltered bays and inlets. This is less a problem in the Galactian portion of the lake than along the shorelines of the neighbouring countries.

One consequence of the deterioration of the ecosystem has been the ban by the REIO members on the import of Saviour Fish on grounds that they contained harmful chemicals which were used in fishing operations. This has affected thousands of fishers and marketers in countries around the Lake, including Galactia.

1.2 The marine sector

The fisheries activities in the marine sector exploit both pelagic and demersal fish resources. Fishing activity in the marine sector consists of:

- artisanal fishing, using canoes (about 9 000 canoes, of which 55 percent are motorized);
- semi-industrial³⁸ coastal fishing, using locally manufactured motorised wooden boats (150 craft);
- trawling, using imported steel vessels more than 35 metres long (60 trawlers);
- tuna fishing, by pole and line and purse seine vessels, including foreign operated boats (33 vessels).

The focus for IUU fishing in the marine sector is fishing by trawlers and tuna fishing.

1.2.1 Trawlers and tuna vessels

The major species fished by trawlers is shrimp. Fourteen Galactian trawler vessels fish in the waters of neighbouring countries, and the others fish in Galactian waters. In Galactia, the trawlers may only fish in certain areas and with specified gear. Shrimps are processed and packed on board the trawlers for export.

Three tuna vessels are known to fish in neighbouring countries and on the high seas, and several others are suspected of fishing beyond areas of national jurisdiction. Thirty of the vessels are pole and line and three are purse seiners. All tuna vessels are currently operated on a joint-venture basis with Galactians beneficially owning or controlling at least 50 per cent of the shares as required by the 2002 Fisheries Act. They are all registered in Galactia. Where there is no joint venture the Fisheries Act allows licences for foreign fishing vessels to be issued if there is an access arrangement, but none have been issued in this manner.

1.2.2 Tuna processing and production

About 40 per cent of the sustainable annual tuna catch of the Eastern Atlantic can be taken in Galactian waters. About 70 per cent of the landed tuna is processed into loins or canned and exported, and it is believed that tuna is the only significant species in Galactian waters able to sustain increases in production. Galactia's tuna fishing potential has been increased by the recent provision of tuna landing facilities, financed by foreign aid.

³⁸ Semi-industrial is defined in the Galactian 2002 Fisheries Act as a motor fishing vessel powered by an inboard engine, and excludes artisanal fishing vessels (traditional canoe fishing by a citizen) and industrial fishing vessels (motor fishing vessel equipped with hydraulic equipment and using industrial gear).

Tuna processing and preparation of fishmeal from tuna discards are the only industrial processing activities carried out in Galactia. The Pacifica Food Cannery and Atlantica Food Cannery process tuna mainly for the export market. Since continuous supply of tuna is a problem, overseas partners able to bring in or equip fishing boats are being sought. The Minister of State in charge of Fisheries recently announced that Government would bring in some fishing vessels to enable Galactians to produce fish locally, as in the past few years the concentration had been on the importation of fish. A major goal is to raise tuna production from 70,000 to 100,000 metric tonnes annually.

1.2.3 Terme Harbour, port development

Terme Fishing Harbour is currently the main landing point for all tuna and industrial vessels. The Pacifica and Atlantica Food canneries, with capacities of 25,000 tonnes and 4,500 tonnes, respectively, are located within the Terme Fishing Harbour Area. The semi-industrial fleet is mostly located in Terme Fishing Harbour.

1.2.4 Export and investment policy, financial value of industry

The Galactian government seeks to encourage non-traditional fisheries with a view to export, and to this end it has a policy for tax free port and zone development. This would encourage investment by providing tax exoneration for the first ten years of operation.

In total, the marine fishing industry supports up to 1.5 million people, about 10 per cent of the total population. It accounts for about 5 per cent of the agricultural Gross Domestic Product (GDP). Fish and fish products, including tuna and shrimp, contribute US\$62 million which is 20 per cent of the industrial or non-traditional exports of Galactia.

1.2.5 Deepwater species depleted

Catches made in the Galactian exclusive economic zone (EEZ) are comprised of about 80 per cent deepwater species. All indications are that there is a high rate of exploitation and excessive fishing pressure, especially for demersal stocks. In the past eight to ten years, several reports have emphasised the need to reduce the fishing pressure on the demersal stocks because they are significantly depleted.

There are a number of reasons for this. Galactia is a big market for fish – and demand for fresh or frozen produce outstrips supply. This has encouraged many to take up fishing, increasing the number of canoes and leading to overfishing of the accessible coastal shallows. Also, large-scale poaching by foreign vessels seriously depleted the demersal fish stocks in the Galactian EEZ some years ago.

1.2.6 Galactian nationals in marine fisheries sector

Galactian nationals working in the marine fisheries sector confine their activities to the Galactian fishery waters or Galactian vessels, and are not employed on vessels of other countries. Two Galactian-owned vessels that fish outside Galactian waters illegally carry two registrations, one Galactian and the other from Pluto, a country that does not meet its flag State responsibilities.

2. FISHERIES MANAGEMENT IN GALACTIA

The fisheries in Galactia are controlled by two management systems, described below. One is the traditional systems based on community institutions and social practices at the local level. The second is a management system consistent with international management principles, based on free access but regulated by the State. It is principally directed at the activities relating to semi-industrial and industrial fishing vessels in the marine sector. The 2002 Fisheries Act, described below, provides the basis for regulation of the marine sector.

2.1 Traditional systems of management

The head of the fishing community is the Chief Fisherman, who is chosen from a clan in the community. As a symbol of local administrative and spiritual authority in the community, the Chief Fisherman settles disputes, maintains law and order on the beach, coordinates action in the event of accident at seas, mediates with migrant fishers, supervises the fair distribution of any communally acquired inputs, collects user fees for initiating development projects and leads the people in performing religious rituals connected with the sea. He is assisted by a council of senior fishers.

Attempts have been made to establish community-based fisheries management committees in all the fishing communities in the Great Vegan Lake system. With the assistance of the Department of Fisheries, the fishing communities are encouraged to plan, formulate and implement fisheries resource management plans. Astra, a fishing community in the Lake system, has an effective community-based system, and is being used as a model for adoption by other fishing communities. This system of management has been found to be relatively more effective than conventional methods.

2.2 Management regulated by the State - the 2002 Fisheries Act

Fisheries management and development requirements, consistent with international principles, are embodied in the 2002 Fisheries Act. Recognizing the traditional systems, it provides a framework for inland fisheries, including a community-based management system. It contains more substantial provisions relating to the semi-industrial and commercial marine sectors.

The Act was drafted in 1994, but not passed into law for many years. It therefore does not implement many of the provisions that were developed in the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the IPOA-IUU. It applies only to activities in areas under Galactian jurisdiction, except for the enforcement action of hot pursuit outside such areas for an offence committed within Galactian jurisdiction.

The Act is regarded as a platform for developing and strengthening fisheries management in Galactia, and is used as a major reference point for capacity building and addressing management issues, including IUU fishing activities. Relevant provisions that would empower Galactia to improve its current management practices (previously hindered by lack of authority as well as financial resources and political support) are set out below.

Although major constraints to implementing the legislation are the continuing lack of human resources, capacity, infrastructure, financial resources (sometimes resulting in conflicts of interest) and integration with other government agencies, Galactia is benefiting from assistance from sub-regional, regional and international organizations and programmes, as well as donor assistance. It therefore views the legislation as a foundation upon which to build and priorities its management practices.

2.2.1 The Fisheries Commission and Minister

The Fisheries Act establishes a management authority in the form of a Fisheries Commission in the Ministry of Food and Agriculture. It is comprised of ten persons, including seven *ex officio* government and three industry members. Its object is to regulate and manage the utilization of the fishery resources of Galactia and coordinate the policies in relation to them. Its functions include promoting subregional, regional and international cooperation in fisheries management. There is also a provision for the Minister to consult on international fisheries management, including through regional or sub-regional organisations or international agencies.

2.2.2 Licence and registration requirements for fishing vessels

In keeping with the dual management systems, the Act has separate provisions in relation to local industrial and semi-industrial fishing vessels, foreign fishing vessels, artisanal fishing, aquaculture and recreational fishing vessels. Licences are required for fishing in Galactian waters by:

- foreign fishing vessels;
- local industrial and semi-industrial fishing vessels;
- canoes;
- artisanal fishing; and
- recreational fishing.

Licensed vessels are not allowed to land, tranship or discharge any fish outside Galactia. A licence is required for transshipment or export, and in any case fish have to be landed first in Galactia. The Fisheries Commission is required to keep a register of fishing licences. Licensed vessels are required to make appropriate reports of catches and related data, and maintain logbooks.

2.2.3 The Inshore Exclusion Zone

Large semi-industrial vessels and industrial vessels are not permitted within the inshore exclusion zone (IEZ). This comprises the coastal waters between the coastline and the 30 metre isobath or 6 nautical mile offshore limit, whichever is farthest. Canoe support vessels are also prohibited, as are towing gear. The IEZ is reserved exclusively for small semi-industrial vessels. Unlike some of its neighbours, a major problem in Galactia is not with illegal trawlers but with licensed trawlers using illegal practices, including widespread fishing inside the IEZ. Trawlers are required to operate according to strict regulations, but the government does not have the necessary capacity to enforce this.

2.2.4 Galactia Monitoring, Control and Surveillance Unit

The 2002 Fisheries Act provides for a Monitoring, Control, Surveillance and Enforcement Unit. Personnel for the Unit are designated by the Minister in consultation with the Minister for Defence, and include personnel from the navy, air force and the secretariat of the Commission. Their powers are clearly set out for activities inside areas of Galactian jurisdiction, but, as noted above, they may exercise their powers beyond the limits of the EEZ following hot pursuit.

2.2.5 Penalties, fines, compounding process

Management of fisheries can be frustrated due to the fact that penalties and fines in the Act are very steep, but somewhat uneven. They are expressed in US dollars and in most cases there are maximum and minimum fines. Maximum fines generally apply to semi-industrial, industrial or foreign fishing vessels and can be as high as \$2 million, for example in the case of unlicensed fishing by a foreign fishing vessel. However, unlicensed fishing by a Galactian industrial fishing vessel attracts a minimum fine of \$1000, with no maximum specified.

There is a provision in the Fisheries Act for compounding an offence, allowing the Commission to accept an amount not less than the minimum penalty for the offence, plus the fair market value for any fish caught illegally, with the consent of the prosecutor.

2.2.6 Evidentiary provisions

Evidentiary provisions allow for certificate evidence by an authorized officer regarding, *inter alia*, the position of a vessel as identified by position fixing instruments. The certificate can be used as sufficient evidence in the prosecution if there is no objection by the defendant. There is a general provision regarding “designated machines” where the Minister may designate a machine by notice in

the *Gazette* and the readings from such machines are admissible as evidence under certain circumstances. This could apply to automatic location communicators (ALCs) in a vessel monitoring system (VMS), but there are no requirements regulating the installation and maintenance of ALCs for VMS generally.

2.3 Integrated decision-making in Galactia

As noted above, the 2002 Fisheries Act provides for integrated decision-making in the Department of fisheries through establishment of the Fisheries Commission, and in requiring consultations.

In areas related to fisheries, the Ministry of Environment, Science and Technology acts as Coordinating Ministry for integrated decision-making in the following areas:

- integrated coastal zone management and sustainable development;
- marine environmental protection;
- sustainable use and conservation of marine living resources (of the high seas and under national jurisdiction).

Other arrangements that facilitate coordination include the National Committee for the Implementation of Agenda 21 and the Steering Committee of the Gulf of Galactia Large Marine Ecosystem (LME) Project. However, in respect of the latter there has not been much progress on addressing issues relating to management of high seas fishing because the project addresses broader issues relating to the LME.

3. RESEARCH AND TRAINING

The University of Galactia carries out research that is focused on the Saviour Fish and related species. It runs two research stations on the Great Vegan Lake in cooperation with the Department of Fisheries.

The Water Research Institute conducts research on the ecological changes of the Great Vegan Lake, estuaries, lagoons and the immediate inshore water system of Galactia in order to provide information for proper utilization, exploitation, development and management of resources.

Galactia also benefits from the Regional Project for Research and Training on Coastal Marine Systems, and other relevant projects implemented with development assistance and through regional organizations and programmes.

4. DEVELOPMENT ASSISTANCE

The World Bank is midway through a ten year fisheries sub-sector capacity building project in Galactia, in the amount of US\$9 million.

A regional economic integration organization and UN Specialized Agencies have provided substantial technical support to the development of the fisheries subsector.

In addition, many of the regional organizations and programmes, noted below, have also been active in providing technical assistance and fisheries management support to Galactia.

5. INTERNATIONAL AND REGIONAL LAW AND RELATIONS

5.1 Treaties and agreements

Galactia has signed and ratified the 1982 United Nations Convention on the Law of the Sea (1982 UN Convention). It has not signed the 1995 UN Fish Stocks Agreement nor adhered to the 1993 FAO Compliance Agreement. However, the government plans to become party to the 1995 UN Fish Stocks

Agreement and 1993 FAO Compliance Agreement to better carry out its obligations as a member of regional fisheries bodies.

5.2 Membership in regional fishery bodies

Galactia is a member of the following regional fishery bodies:

- **The Commission for the Conservation of Tuna (CCT)** – The main objective of the CCT Convention is to maintain the populations of tuna and tuna-like species found in the Atlantic at levels which permit the maximum sustainable catch for food and other purposes. The Commission's functions inter alia include: (i) to study the populations of tuna and tuna-like fishes, (ii) to collect and analyze statistical information relating to the current conditions and trends of the tuna fishery resources of the Convention Area, and (iii) recommend studies and investigations to the Contracting Parties.

The Commission's area of competence comprises all waters of the Atlantic Ocean, including Galactian waters. It has no regulatory powers, but makes regulatory recommendations to be implemented by Contracting Parties. CCT has recommended a number of measures on catch quotas, minimum weight of fish and limitation of incidental catches, as well as IUU fishing. The regulatory recommendations adopted by CCT are subject to an objection procedure.

CCT has developed a catch documentation scheme whose primary objective is to track the international trade in certain tuna species. It requires that any exports to a member country of the relevant species must be accompanied by a statistical document, validated by the flag government of the vessel which caught the fish, which provides information on the vessel and the area in which the fish was caught. Members are required to provide the Commission with an annual report of the data collected, and these reports are sent to all members.

- **The Committee for Eastern Ocean Fisheries (CEOF)** - CEOF was established under the Constitution of the United Nations Food and Agriculture Organization. It is an advisory body; it can make recommendations on fisheries management to its member countries, but these recommendations are not binding. In recent years, agenda items included emerging global fisheries issues, implementation of the 1995 FAO Code of Conduct in the region and the status and priorities for scientific research. At its last Session in October 2002, the Committee recommended that the Director General should keep under review the issue of a possible framework for the high seas. To this effect, it requested the Director General to convene a Legal and Technical Consultation to address the matter before the next Session of CEOF.

There have been no activities relating to the assessment of IUU fishing, or catch certification and documentation. However, CEOF is sensitizing Members on the dangers of IUU fishing and consulting regional institutions on ways to strengthen monitoring, control and surveillance (MCS) to curb illegal fishing.

- **The Committee for Inland Fisheries (CIF)** - CIF was established under the Constitution of the FAO. The terms of reference of the Committee are:
 - to promote, coordinate and assist national and regional fishery and limnological surveys and programmes of research and development leading to the rational utilization of inland fishery resources;
 - to assist Member Governments in establishing the scientific basis for regulatory and other measures for the conservation and improvement of inland fishery resources, to

- formulate such measures through subsidiary bodies as required, and to make appropriate recommendations for the adoption and implementation of these measures;
- to promote and coordinate efforts on a national and regional basis to prevent damage to the aquatic environment, including the prevention and control of water pollution;
 - to assist in the development of fish culture and stock improvement, including the control of fish diseases and the importation of exotic species;
 - to promote and assist in the utilization of the most effective fishing craft, gear and techniques;
 - to promote and assist activities concerned with the processing, preservation and marketing of fish and fish products;
 - to encourage education and training through the establishment or improvement of national and regional institutions and by the promotion and the organization of symposia, seminars, study tours and training centres;
 - to assist in the collection, interchange, dissemination and analysis of statistical, biological and environmental data and other inland fishery information; and
 - to assist Member Governments in formulating national and regional programmes to be implemented through sources of international aid to help achieve the objectives referred to in the preceding paragraphs.

Members are encouraged to incorporate relevant parts of the 1995 FAO Code of Conduct in their legislation and policies. The Secretariat is encouraging national authorities to set up consultations with non-fisheries ministries, agencies and the fishers to address Code issues. Even though the IPOA on the Management of Fishing Capacity addresses marine fisheries, CIF members are reminded of the dangers of over-capacity in inland fisheries. CIF is also sensitising members on the dangers of IUU fishing and countries encouraged to consolidate and strengthen the community-based management systems set up to limit IUU fishing.

CIF has recommended the implementation of precautionary approach for the management of inland fisheries to members that lack adequate knowledge on the state of the stocks, which prevails in most cases. Another issue considered to be a priority is involvement of the community in the management of inland fisheries.

- **The Great Vegan Lake Fisheries Organization (GVLFO)** - The objectives of the GVLFO are to foster cooperation among the Contracting Parties, harmonize national measures for the sustainable utilisation of the living resources of the Lake and to develop and adopt conservation and management measures. Member countries are currently harmonizing their legislation, and the new legislation will adhere to the Code of Conduct for Responsible Fisheries.

Regular extension and surveys are conducted to further the assessment of the extent, impact and effects of IUU fishing. Illegal gears are being removed from the fishery, and decisions relating to mesh size and slot size have been taken. A priority issue is cross border fishing, and guidelines have been issued in connection with this.

New entrants in the fishery are not encouraged, and catch certification and documentation is implemented mainly in fish factories and exported fish. To address ecosystem-based fisheries management, the catchment area is being conserved under a Great Vegan Lake Environmental Management Project.

There are no current plans to strengthen the organization's capacity, due to the mandate and budgetary constraints.

5.3 Participation in regional programmes

- **Regional Development Community (RDC) – MCS Programme** Galactia is in partnership with the RDC MCS Programme, which operates under its Protocol on Fisheries. The objectives of the RDC MCS programme address the marine fisheries resources of the region. Capacity building and regional cooperation for MCS are prominent objectives.

Expected results of the RDC MCS Programme include:

- national fisheries MCS systems functioning
- establishment of a basis for the management of shared stocks and international fishing activities
- harmonized approaches to the control of international fishing activities
- marine environment more protected
- enhanced regional cooperation and communication

The FAO Code of Conduct for Responsible Fisheries constitutes the framework for any sustainable management of fisheries. RDC will introduce this comprehensive approach within the Protocol on Fisheries, and through the Marine Fisheries Policy Analysis and Review Project.

GALACTIA NPOA–IUU

1. ALL STATE RESPONSIBILITIES

1.1 Review of national laws, regulations and practices relating to IUU fishing³⁹

The Republic of Galactia will undertake a review of its national laws, regulations and practices relating to IUU fishing, with a view to implementing the IPOA–IUU in the most expedient manner possible. In prioritising the implementation of the 2002 Fisheries Act, it will identify provisions which will be most effecting in combating IUU fishing, such as MCS and licensing. The principal goal of the review is to rationalize and strengthen the legal regime and to make possible the use of all relevant tools in the IPOA–IUU "toolbox".

1.1.1 Additional legislative or regulatory authority necessary or desirable to implement the IPOA

The Fisheries Act, 2002 will be reviewed to consider whether to give the following areas legal status through laws, regulations or other instruments, or to take other measures.

1.1.1.1 State control over nationals⁴⁰

- Galactia does not currently prohibit nationals or vessels from supporting or engaging in IUU fishing beyond areas of national jurisdiction, as required by the IPOA–IUU. It is recognised that the term “national” is ambiguous, and could apply to persons and fishing vessels,⁴¹ so Galactia will take measures in respect of both.
- For Galactian fishing vessels, a review will be undertaken with the aim of adopting legal requirements (by appropriate instrument - law, regulation or other) to: require licences for vessels that fish on the high seas; make reports consistent with requirements of CCTi and international obligations under the 1995 UN Fish Stocks Agreement; comply with boarding, inspection and observer requirements on the high seas; and prohibit the Galactian vessels that fish on the high seas from engaging in IUU fishing or undermining conservation and management measures of designated⁴² regional fisheries management organisations or arrangements (RFMOs). The Fisheries Commission will be required to keep certain information relevant to high seas fishing vessels on a register, consistent with standards of RFMOs of which Galactia is a member. The register will, at a minimum, contain the data in paragraph 2.2.1 of this NPOA.
- Galactia does not have capacity to identify and prosecute stateless vessels that undermine international conservation and management measures on the high seas, so will not be seeking legal amendment to this effect. However, it will support the efforts of other member countries of CCT to this effect.⁴³

³⁹ For examples of legislation adopted by some countries relating to IUU fishing, see Edeson, W., Freestone, D., and Gudmundsdottir, E., “Legislating for Sustainable Fisheries” The World Bank, 2001.

⁴⁰ IPOA–IUU Paragraphs 18 and 19.

⁴¹ For further explanation of the ambiguity, see Edeson, W., *et al*, note 1, p. 63-65.

⁴² Note the official designation of RFMOs, for example by Notice in the *Gazette*, would provide the necessary certainty as to the high seas conservation and management measures that will be applicable to Galactian nationals. Such certainty in law is an essential component of criminal offences.

⁴³ The United States, for example, has declared that stateless vessels are subject to the jurisdiction of the United States, and has successfully exercised its authority under related legislation (the Magnuson-Stevens Act and the High Seas Fishing Compliance Act.)

- For Galactian persons in areas beyond national jurisdiction, consideration will be given to a legal requirement prohibiting Galactian nationals from engaging in fishing activities that violate the fisheries laws of another State or that undermine the effectiveness of conservation and management measures adopted by designated RFMOs.⁴⁴
- It is recognised that enforcement of such a legal prohibition could be difficult, especially if a foreign boat with no connection to Galactia is involved. Concerns include limited enforcement capacity and potential problems with double jeopardy, where action may be taken against the same person for the same offence by Galactia and the State where the fisheries laws were violated. It is currently estimated that few, if any, Galactians are employed on fishing vessels flying a non-Galactian flag.

1.1.1.2 Sanctions⁴⁵

- Sanctions reviewed will include provisions in the 2002 Fisheries Act, other legislation and policy and economic-oriented measures including trade restrictions. The objective is to assess whether the sanctions are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and deprive the offenders of the benefits accruing from such fishing.
- In the 2002 Fisheries Act the review will encompass the level of fine, the practice of compounding offences (accepting an administrative penalty) in accordance with the 2002 Fisheries Act, the seizure, sale and forfeiture of items used in the offence, terms of imprisonment and other relevant considerations. Special attention will be paid to the list of serious violations in Article 21(11) of the 1995 UN Fish Stocks Agreement, in order to ensure that Galactian penalties for such offences are at the appropriate level. Fines and penalties for IUU fishing beyond areas of national jurisdiction will be introduced, and fines for IUU fishing in the IEZ will be increased. In addition, the review will include the consistency of the level of fines for serious offences throughout the Act.
- *Inter alia*, the level of fine for non-reporting or misreporting will be reviewed (including by reference to similar fines in the region) in order to better enforce against IUU fishing, including by use of catch certification schemes, and landing and transshipment documentation requirements.
- The best legal mechanism for implementing trade sanctions, prohibition of port calls or landings or other relevant sanctions against IUU fishers and fishing vessels will also be reviewed.

1.1.1.3 Eliminating subsidies or other economic support to IUU fishers⁴⁶

- Financial laws and practices, including tax exoneration, investment criteria and subsidies, will be reviewed with a view to ensuring that economic benefit or support is not provided to Galactian companies, vessels or persons involved in IUU fishing. In particular, if any IUU fisher is receiving benefits or tax exoneration connected with the development of Terme Port, this will be immediately reviewed and withheld if appropriate.

⁴⁴ An example of this is the United States Lacey Act which can be used in certain circumstances, for example where the fish or fish products are landed or brought to any place subject to US jurisdiction. The legislation is not directed specifically at US nationals, but makes it unlawful for any person subject to US jurisdiction to “import, export, transport, sell, receive, acquire, possess or purchase any fish...take, possessed or sold in violation of any foreign law, treaty or regulation.” This has been used successfully to prosecute US nationals who engage in certain forms of IUU fishing.

⁴⁵ IPOA–IUU Paragraph 21.

⁴⁶ IPOA–IUU Paragraph 23.

1.1.1.4 Evidentiary standards and admissibility⁴⁷

- The evidentiary provisions of the 2002 Fisheries Act are innovative in terms of permitting certificate evidence and contain modern provisions relating to burden of proof for fisheries offences. They are satisfactory for the introduction of evidence of some new technologies but require more extensive provisions that cover such areas as digital photography. There is also no special reference to the admissibility of evidence taken in such situations as high seas boarding and inspection by a non-national inspecting officer. A review of such provisions will be carried out, with a view to amending the Fisheries Act appropriately.

1.1.1.5 Monitoring, control and surveillance⁴⁸

- The 2002 Fisheries Act has extensive provisions for MCS, but they apply only to areas under national jurisdiction, except for hot pursuit. There are no provisions in relation to modern MCS technology such as VMS. There does not seem to be the legal flexibility needed for sub-regional cooperation in MCS under the RDC MCS programme, nor for cooperative MCS on the Great Vegan Lake. The Act will be reviewed, in view of Galactia's current and future international obligations, with the aim of introducing requirements focused on marine fisheries including:
 - cooperation and harmonisation with other countries in the sub-region for marine fisheries, and the neighbouring countries surrounding the Great Vegan Lake;
 - installation and maintenance of ALCs and compliance with any requirements of a VMS system consistent with international standards;
 - boarding and inspection on the high seas consistent with international law, recognizing the rights and obligations of masters and of inspection officers;
 - observer programmes with relevant national, regional or international standards, including for Galactian vessels on the high seas; and
 - reporting requirements consistent with requirements in the international instruments for areas within and beyond national jurisdiction.
- Technical assistance will be sought from regional bodies and ongoing programmes as appropriate.

1.1.1.6 Strengthening control over foreign fishing

- It is current Galactian policy to partner with foreign investors, rather than enter into access agreements allowing foreign vessels to fish in Galactian waters. Galactia will take measures to ascertain whether any potential partner has been involved in IUU fishing, and if so will disqualify that partner from any investment opportunity or other role in the Galactian fishing sector. In the event the policy changes, an access agreement will be required under the 2002 Fisheries Act and special attention will be given to terms and conditions that prevent, deter and eliminate IUU fishing by those vessels.

1.1.1.7 Strengthening control over landings and transshipments

- Notification requirements for landings and transshipments for marine fisheries will be reviewed to ensure adequate opportunity for inspection. The legal authority to prohibit landings and transshipments in a timely and effective manner will be reviewed. The CCT resolutions and recommendations will be reviewed for implementation.

⁴⁷ IPOA-IUU Paragraph 17.

⁴⁸ IPOA-IUU Paragraph 24.

1.1.1.8 Strengthening control over exports

- The 2002 Fisheries Act requires that a permit be issued by the Minister for export of fish in commercial quantity, but there is currently no provision authorizing or requiring the Minister to deny an export permit in the event the fish were caught in an IUU fishery, nor creating an offence for an exporter to trade in such fish. An amendment will be prepared catering to these situations.
- Regarding fish illegally caught by non-nationals in Galactian waters of the Great Vegan Lake, then landed in and exported from neighbouring countries, Galactia will work through regional organizations and programmes and directly with the neighbouring and importing countries as appropriate to eliminate this practice.

1.1.1.9 Implementation of obligations under RFMOs

- Legislative authority to deter IUU fishing that undermines conservation and management measures adopted or recommended by any RFMO to which Galactia is party will be reviewed and amendments proposed. One amendment to the 2002 Fisheries Act that will be considered is a provision prohibiting any person from landing, importing, exporting, selling, buying etc. any fish taken contrary to international conservation and management measures adopted a RFMO to which Galactia is party.⁴⁹ Sanctions would be severe, including high fines, and forfeiture as applicable.
- In addition, cooperation with the catch certification schemes of CCT will be intensified to facilitate detection and the 2002 Fisheries Act will be reviewed to ensure the appropriate inspection and reporting requirements are sufficient, and the sanctions are deterrent.
- A possible constraint in adopting and implementing the above amendments is the planned expansion of tuna landings in Terme Port. However, the current government supports the goal of sustainable fisheries coupled with a punitive fine.

1.1.1.10 Implementation of international law⁵⁰

- Galactia has implemented the 1982 UN Convention in its 2002 Fisheries Act to a satisfactory extent. Further action regarding implementation of the post-UNCED instruments is described under paragraph 1.3, below.

1.1.2 Review of practices relating to IUU fishing

1.1.2.1 State control over nationals⁵¹

- Because Galactian nationals don't as a rule seek employment as crew on non-Galactian fishing vessels, Galactia's practices will be focused on control over its national vessels. Galactia will maintain a register of the operators or beneficial owners of vessels flying its flag, including their nationality. In this way Galactia can identify its nationals should a vessel be involved in IUU fishing. Galactia will encourage other coastal States and RFMOs to maintain the same information base, and encourage cooperation and information exchanges for purposes of controlling nationals who may be involved in IUU fishing.
- Galactia will develop measures to discourage its nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities, including a

⁴⁹ This is similar to the US "Lacey Act" provision, which has the objective of enforcing the laws of other States through such measures.

⁵⁰ Paragraph 11.

⁵¹ Paragraphs 18 and 19.

review of the benefits they may receive from Galactia (such as landing rights) with a view to withholding such benefits. Initial efforts will be directed towards those vessels that are registered in Pluto.

- For inland fisheries, Galactia will launch an information campaign directed at traditional fishing communities with the objective of ensuring that Galactian nationals fish only in national waters on Great Vegan Lake.

1.1.2.2 Vessels without nationality⁵²

- Galactia currently lacks capacity to take active measures in relation to vessels without nationality that fish on the high seas, but will cooperate as appropriate with member countries of CCT that have such legislation and capacity.

1.1.2.3 Non-cooperating States⁵³

- Galactia will cooperate with all RFMOs to which it belongs to prevent, deter and eliminate the activities of non-cooperating States which engage in IUU fishing. In particular, it will implement all relevant resolutions of CCT.

1.1.2.4 Economic incentives⁵⁴

- Tax exonerations and other benefits given to attract additional partners for fishing will be withheld from companies, vessels and persons that are involved in IUU fishing.

1.1.2.5 Monitoring, control and surveillance⁵⁵

- The Galactian MCS Unit and fisheries database and licensing unit have been strengthened as part of the capacity-building project of the World Bank. Due to lack of capacity, there is no observer programme, but a small team of inspectors carry out intermittent port inspections. Until now, there has been no focus on IUU fishing in the annual operations of the MCS unit or the fisheries database. The Unit will seek assistance to develop a multi-year strategy that addresses IUU fishing, with the following priorities:
 - improved enforcement of IUU fishing in the EEZ;
 - improved enforcement of vessel and gear marking;
 - improved training and capacity, including training for high seas boarding and inspection as appropriate;
 - improved liaison with the fisheries database and licensing unit;
 - developing an observer programme;
 - improved inspection of port landings and transshipments;
 - developing a VMS system, in step with amendments to the law regarding VMS and high seas fishing;
 - improved liaison with RFMOs of which Galactia is member;
 - improved communication with other organizations and networks, such as FAO and the MCS Network.
- A budget to implement the strategy will be drawn up and monies of the Fisheries Development Fund established under the 2002 Fisheries Act will be allocated by the Commission among the above priorities.

⁵² Paragraph 20.

⁵³ Paragraph 22.

⁵⁴ Paragraph 23.

⁵⁵ Paragraph 24.

1.2 General measures needed to conform national laws, regulations and practices to international standards

General measures needed to conform national laws and regulations to international standards consist of the reviews and amendments described in paragraph 1.1 of this section.

1.3 Plans to become party to and/or implement relevant international instruments

Galactia plans to adhere to the 1993 FAO Compliance Agreement and accede to the 1995 UN Fish Stocks Agreement, but because of lack of institutional capacity will request special assistance for developing States under Part V of the IPOA–IUU to enable accession and implementation in national law. It will also seek further assistance in implementing the 1995 FAO Code of Conduct for Responsible Fisheries.

1.4 Measures to improve State control over nationals

Measures will be taken to improve State control over nationals, based on the review described in paragraph 1.1.1.1, above. In addition, an information campaign will be mounted, with external assistance, to deter nationals from engaging in or supporting IUU fishing, both within and outside Galactian waters.

1.5 Measures to deal with vessels without nationality that conduct IUU fishing

Galactia currently lacks capacity to take measures to deal with vessels without nationality that conduct IUU fishing, as noted in paragraph 1.1.2.1 above. Galactia will ensure communication as appropriate through any RFMO of which it is a member to notify other States of information it receives or action it takes. It will also be ready to receive information from any RFMO or other State regarding a vessel without nationality that may appear to be heading for Galactia waters, and will take appropriate measures.

1.6 Elimination of subsidies and other economic support relating to IUU fishing

The measures taken to eliminate subsidies and other economic support relating to IUU fishing are described in sections 1.1.1.3 and 1.1.2.4 above.

1.7 Measures to improve monitoring, control and surveillance

Measures to improve monitoring, control and surveillance are described in sections 1.1.1.5 and 1.1.2.5 above. In addition, with respect to inland fisheries on the Great Vegan Lake, Galactia will cooperate through regional organizations and programmes to improve MCS through improved reporting, research and developing a programme where its nationals report on the activities of non-Galactian vessels. It will also cooperate directly as appropriate with neighbouring countries around the Great Vegan Lake towards this end.

2. FLAG STATE RESPONSIBILITIES

2.1 Measures to improve registration system for fishing vessels

2.1.1 Keeping register current

Galactian law currently requires registration of all fishing vessels, but the register is out of date because of lack of capacity to keep it current. Many vessels currently on the register no longer exist, or have changed ownership. Measures will be taken under the capacity-building project to ensure that the register is kept up to date, with initial priority given to semi-industrial and industrial vessels.

2.1.2 Control of registered vessels

Galactia will take measures to ensure its ability to control vessels before granting registration. This will include the following.

2.1.2.1 Sufficient registration information

- As a priority, the information required for vessel registration will be reviewed to ensure it reflects the standards of transparency being developed at regional and international levels. In particular, the CCT rules to prevent vessels involved in chartering arrangements from being used for IUU fishing will be reviewed and implemented.

2.1.2.2 Measures to deny registration

- Measures to allow registration to be denied to a fishing vessel that has been convicted of IUU fishing, or, if registered, that will allow the vessel to be deregistered upon conviction or require deregistration if a vessel carries more than one registration. As a matter of priority, this will apply first to semi-industrial and industrial vessels.

2.1.2.3 Further control measures

- As the capacity of the MCS Unit is strengthened and law is reformed, further measures will include requirements for fishing beyond areas of national jurisdiction such as licensing, reporting, observers and the installation of ALCs for industrial and semi-industrial vessels.

2.1.3 Coordination of government activities

The Fisheries Commission will liaise regularly with the Ships' Registry Office with a view to putting information requirements and procedures in place to prevent and deter IUU fishing, such as deregistration requirements for vessels convicted of IUU fishing.

2.1.4 Review of chartering arrangements

Although all vessels currently fishing fly the Galactian flag, measures will be taken to ensure Galactia can maintain control, in areas beyond national jurisdiction, of vessels fishing under joint ventures or chartering arrangements. Such measures will require transparent chartering arrangements to ensure clear, current and accurate information is provided, and legal provisions will be considered :

- requiring that the chartered vessels take on the nationality of Galactia – that is, be registered in Galactia and fly its flag - for the duration of the charter arrangement; or
- requiring the charter arrangement to make both Galactia and the flag State responsible for controlling the high seas fishing conducted pursuant to a charter arrangement.

The charter arrangement could, for example, provide express authority for both States to board and inspect the vessel on the high seas and require reporting of catch data to both States. The 2002 Fisheries Act, in which the “operator” of a vessel is liable for most offences, defines operator as the owner, charterer and master. This means that the charterer may be prosecuted if IUU fishing takes place.

2.2 Creation of a comprehensive record of fishing vessels

2.2.1 Data for registration of high seas fishing vessels

The following data will be included in the registration of fishing vessels authorised to fish on the high seas:

- name of fishing vessel, registration number, previous names (if known) and port of registry;
- previous flag (if any);
- International Radio Call Sign (if any);
- name and address of owner or owners;
- where and when built;
- type of vessel;
- length;
- name and address of operator (manager) or operators (managers) (if any);
- type of fishing method or methods;
- moulded depth;
- beam;
- gross registered tonnage;
- power of main engine or engines.

2.2.2 Submission of data to FAO

Submission of the above data to FAO will be arranged on a regular basis, noting that information on the last six points (from name and address of operator) will be submitted to the extent practicable.

2.3 Measures requiring authorization to fish

The 2002 Fisheries Act requires industrial and semi-industrial vessels to have a licence to fish prior to engaging in fishing activities, and this will continue to be enforced. Galactia will cooperate through regional organizations and programmes to develop arrangements aimed at a system of fishing authorizations for the Great Vegan Lake.

2.4 Measures to control transport and support vessels

The 2002 Fisheries Act prohibits support canoes from operating in the IEZ, and measures will be reviewed to enforce this law. Galactia will enforce the requirement that at-sea transshipments and processing of fish require authorization from the flag State (including Galactian vessels that undertake processing at sea in the zone of a neighbouring country). Galactia will adhere to CCT’s rules that at-sea transshipments take place only between CCT members or between CCT members and cooperating non-parties.

2.5 Other control measures

Regulations will be promulgated under the 2002 Fisheries Act to require semi-industrial and industrial fishing vessels and their gear to be marked in accordance with FAO international vessel marking standards.

3. COASTAL STATE MEASURES

3.1 Measures to combat IUU fishing in Galactian waters by foreign vessels

It is suspected that there are incursions by foreign vessels into Galactian marine waters. As the MCS Unit is strengthened, enforcement activity will focus on these incursions. In addition, information will be sought from CCT, FAO and other sources as appropriate as to the vessels that may be fishing in this area.

With respect to IUU fishing by non-Galactian vessels on the Great Vegan Lake, Galactia will continue to develop approaches to improve MCS, including appropriate penalties such as confiscation of fish and vessels operated by unauthorized fishers from neighbouring countries.

3.2 Cooperation with other coastal States

Galactia will cooperate with its neighbouring coastal States, especially those in which Galactian vessels are fishing, with a view to exchanging data and cooperating in enforcement of IUU fishing. Cooperation will be carried out bilaterally and through the RFMOs of which Galactia is a member.

4. PORT STATE MEASURES

4.1 Improvement of port State measures to combat IUU fishing

4.1.1 Advance notification for port access

Galactia will, by regulation, require foreign fishing vessels to provide advance notification in seeking port access.

4.1.2 Inspection of foreign vessels in port

As the MCS Unit is strengthened, a strategy will be developed to ensure foreign vessels are inspected in port, and that the inspectors are trained to inspect catch certification documentation agreed in CCT.

4.1.3 Evidence indicating IUU fishing

Where evidence is found indicating that a foreign vessel in port has encouraged or supported IUU fishing, a procedure will be developed to enable effective measures to be taken, including prohibition on landing or transshipment.

4.1.4 Denial of port access

Procedures will be developed to allow the denial of port access to foreign vessels suspected of engaging in or supporting IUU fishing.

4.2 Cooperation with port States to combat IUU fishing

Galactia will cooperate with neighbouring coastal States to agree on mechanisms and information exchange to combat IUU fishing.

4.3 Implementation of port State measures adopted by RFMOs

Galactia will implement port State measures adopted by relevant RFMOs, with a priority on measures adopted by CCT.

5. INTERNATIONALLY AGREED MARKET-RELATED MEASURES

5.1 Implementation of market-related measures adopted by RFMOs

5.1.1 Provision of information to RFMOs

Galactia will provide information to CCT and other relevant RFMOs as appropriate on vessels suspected of IUU fishing in their respective Areas of Competence.

5.1.2 Import restrictions

Measures will be taken to restrict imports of fish and fish products from vessels and/or States identified by RFMOs, especially CCT, as engaging in or supporting IUU fishing.

5.1.3 Catch documentation schemes

Measures will be taken to implement the catch documentation and certification schemes for Galactian vessels that are adopted by CCT and any other relevant RFMO to which Galactia may become a member.

5.2 Implementation of other market-related measures

5.2.1 Transparency measures

Technical assistance will be requested to develop measures to improve the transparency of markets to allow the traceability of fish and fish products.

5.2.2 Information dissemination

As part of the capacity building project, Galactia will mount an information programme to disseminate information on IUU fishing to individuals and companies whose activities are related to fishing.

5.2.3 Prohibition in law

An amendment to the 2002 Fisheries Act will be drafted as described in paragraph 1.1.1.9, above, that makes it a violation to conduct business or trade in fish or fish products derived from IUU fishing.

6. IMPLEMENTATION OF IPOA–IUU THROUGH RFMOs

6.1 Implementation of IPOA–IUU through RFMOs

Galactia will continue to work through RFMOs to implement the IPOA–IUU. It will support proposals made for relevant activities, and implement any decisions taken to the extent possible. However, Galactia's capacity to participate in RFMOs and to actively implement their resolutions and processes (such as provision of information) is limited. As appropriate, further technical assistance may be sought to further Galactia's participation in some of the following endeavours.

- institutional strengthening of RFMOs;
- additional compliance mechanisms to be adopted by RFMOs;
- better collection and exchange of information through RFMOs;
- strengthen monitoring, control and surveillance through RFMOs;
- development of comprehensive port State systems through RFMOs;
- improve documentation and certification schemes through RFMOs;
- regulate chartering arrangements through RFMOs;

- address non-member fishing through RFMOs;
- formalize cooperation among RFMOs and between RFMOs and other international organizations.

7. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

This Part of the IPOA, which relates to participation in efforts to assist developing States, and give bilateral assistance to developing States, is not relevant for the NPOA of Galactia because it indicates the establishment by donors of a voluntary trust fund. Galactia supports the establishment of a voluntary trust fund, and acknowledges and values the assistance given to date including by FAO programmes such as FishCode, which has a component to support the implementation of the IPOA–IUU fishing.

APPENDIX I

**ROLE PLAYING/PROBLEM SOLVING:
MAKING RESPONSIBLE DECISIONS ABOUT IUU FISHING**

PROBLEM: The foreign flagged vessel, “Galapagos Beauty”, a 550 GRT stern trawler has been fishing for the last four days in the EEZ of the Republic of Zoro. The vessel is not authorized to fish in the EEZ. The vessel has been making good catches of pomp, cot and rouly, all of which are high valued species and have strong market demand in Europe and North America.

The Chief Fisheries Officer (CFO) in Angona, the capital of Zoro estimates that the vessel has taken 200 tonnes of these species in the four day period while operating in the country’s EEZ. His estimates are based on records of past catches, industry intelligence and photographs taken from the air while the vessel was hauling its net.

The vessel, according to its markings and flag which are clearly visible from the air, is registered in Camilla, a small island state in the Southern Ocean. Zoro’s CFO has contacted the Registry Manager in Camilla. He has advised that there is no record of this vessel on the registry.

Zoro’s medium-scale fishers who operate vessels of up to 200 GRT have protested to the Minister for Fisheries in Angona claiming that this larger foreign vessel is taking fish that they are legitimately authorized to catch. These fishers claim that the “Galapagos Beauty” is in fact flying more than one flag. Questions have been asked in parliament about what action the Government is taking to deal with this incursion. The Minister is under pressure to respond with a strong reply.

Zoro has a limited MCS capacity. It has only one small multi-purpose vessel that is used for MCS and search and rescue when and if required. However, the Government does have a light aircraft that it uses regularly to surveille the EEZ. It is used for fisheries, customs and search and rescue purposes. Zoro is a new member of the International MCS Network.

Intercepted radio conversations between the captain of the “Galapagos Beauty” and the vessel owner, who lives in Falu, have revealed that the fish will be offloaded in a neighbouring country in the port of Hella, 350 kms from Angona, in two days time. Apparently, the catch has been sold on a forward contract and is destined for transport to a national supermarket chain in Zetland.

Zoro is a member of the Oceanic Fisheries Commission which maintains information on IUU fishing activities submitted by members. The Commission also has a ‘blacklist’ of IUU fishing vessels.

MEASURES TO ADDRESS THE PROBLEM: The Minister has called a meeting of officials and a representative from the fishing industry in his office. Those involved in the meeting are:

1. Minister
2. CFO
3. Representative from the Government Solicitor
4. Senior MCS Officer
5. President of the Fishers Association
6. Coordinator of the International MCS Network
7. Director of the Oceanic Fisheries Commission

ACTION: To develop a strategy to deal with the problem.

TIME ALLOCATION: 1.0 hour.

COMPOSITION OF THE WORKING GROUPS

WORKING GROUP 1 - INLAND FISHERIES

Leader: AHMAD SACKTIAN BIN LANGGANG
 Rapporteur: BUAZON M. Roberto
 Members: KHAMPHET Roger
 LONG Korn
 U. KHINT AUNG
 ZHAO Tiewu

WORKING GROUP 2 - EEZ FISHERIES

Leader: VITUG Analisa
 Rapporteur: TRY Ing
 Members: HJ. A.RAHMAN BIN MOHAMAD
 KHIN MAUNG WIN
 KEOPHOUTTHAVONG P.
 SUFIAN BIN AHMAD
 TANTIVALA Chitjaroon

WORKING GROUP 3 - EEZ FISHERIES

Leader: ISMAILI BUJANG PIT
 Rapporteur: ONOORA, P.
 Members: NGUYEN Quocd Anh
 NAIBAHU, Tamba
 RIM SONG CHOL
 SUN Shengzhi
 VICHITLEKARN Suriyan

WORKING GROUP 4 - EEZ FISHERIES

Leader: TABIOS, Benjamin
 Rapporteur: SUMIYANTO, Widodo
 Members: LUO, Jianxiong
 MOHD GHAZALI BIN MOHD TAIB
 NGUYEN Long
 SAMSUDIN BIN BASIR
 Y.M.RAJA BIDIN BIN RAJA HASSAN

WORKING GROUP 5 - EEZ FISHERIES

Leader: HJ. AHMAD AHMAD AZAHARI BIN
 Rapporteur: PALMA, Mary Ann
 Members: AHMAD ADNAN NURUDDIN
 ISHARTINI
 RI SONG GUN
 TAN GEIK HONG
 THANAMALARAT Thewan

PROBLEM-SOLVING: MAKING RESPONSIBLE DECISIONS ABOUT IUU FISHING

REPORT OF WORKING GROUP 1

Minister

- To convene and chair the meeting.
- To give decision
- To direct members of the meeting to brief him on their functions in solving the problem.

Chief Fisheries Officer

- To brief the Minister of the incident concerning the incursion of a foreign fishing vessel into the EEZ of Zoro.
- The vessel has been fishing with an estimated catch of 200 tonnes (based on past catch records, industry intelligence and air photographs).
- Medium-scale fishers operating vessels up to 200 GRT have claimed that the Galapagos Beauty is flying more than one flag.
- Zoro has a lack of MCS capacity (i.e. only 1 small multi-purpose vessel and a light aircraft for MCS).
- Investigations have revealed that the Galapagos Beauty is not registered in the neighbouring country Camilla.
- The interception of radio communications have revealed that the vessel will land its catch in Hella in Camilla.
- The Galapagos Beauty is engaged in IUU fishing.

Representative from Government Solicitor

- To consider the case according to Zoro's laws and to ascertain what legal action should be taken against the operators of the fishing vessel.

Senior MCS Officer

- To be alert and act immediately in the event that there is news of a foreign fishing vessel operating in Zoro's EEZ.
- To request other enforcement agencies such as the navy and the marine police to assist in patrol operations in the EEZ and to make arrests as required.
- To request the government to build additional MCS vessels to patrol the EEZ.

President of the Fisher Association

- To inform fishermen to be the "eyes and ears" of the government (i.e. to inform the enforcement agency immediately about any sightings of foreign fishing vessel incursions into the EEZ so as to enable the MCS vessel to act fast to apprehend and arrest such vessels).

Coordinator of the International MCS Network

- To obtain information from the International MCS Network about the origin and flag State of the vessel.
- To see whether this vessel is a "blacklisted" vessel.
- To inform other coastal States that this vessel is engaged in IUU fishing.

Director of the Oceanic Fisheries Commission (OFC)

- To request responsible authorities in Camilla to disallow the landing of catches by the Galapagos Beauty in the Port of Hella and also to request that the fish not be sold because it has been taken illegally in Zoro's EEZ.
- To request the Camilla vessel registry not to permit the Galapagos Beauty to fly the Camilla flag.

REPORT OF WORKING GROUP 2

Assessment of the Issue

The foreign flagged vessel Galapagos Beauty has no authorization to fish in the Zoro's EEZ. However, the vessel has been sighted fishing in the EEZ.

The beneficial owner of the vessel is a resident of Falu. The vessel Galapagos Beauty is registered and flagged in Camilla, but no registration record exists.

The vessel will be landing its catch at the port of Hella that is 350km from Angona. The catch will be exported to Zetland. The authorized fishers in Zoro are claiming that Galapagos Beauty is catching the fish that they are authorized to catch.

Flag State = Camilla
 Port State = Hella
 Coastal State = Zoro
 Market State = Zetland

The strengths of Zoro as a Coastal state are:

- good surveillance, light aircraft but limited MCS,
- new member of the international MCS Network, and
- it's a member of the Oceanic Fisheries Commission (OFC).

Assumptions

- Camilla, Hella and Zoro are members of the Oceanic Fisheries Commission (OFC) but Falu is only a cooperating state.
- Zetland has a NPOA-IUU. One of its market-related measures related to trade for pomp, cot and rouly of rules on origin of fresh chilled and frozen fish.
- Camilla, Hella and Zetland have ratified the 1982 UN Convention on the Law of the Sea.
- The members of the OFC have agreed to observe all management and conservation measures on straddling stocks.
- The stocks are pomp, cot, rouly are straddling stocks that occur both in the EEZs and in areas beyond national jurisdiction.
- The Galapagos Beauty has followed the migration patterns of the straddling stocks from the EEZ of Camilla into the EEZ of Zoro and stayed there for four days.
- The OFC is a subregional fisheries body that manages straddling stocks.
- Some of the conservation and management measures adopted by OFC include:
 - a) The flag State should ensure before it registers a fishing vessel that they can exercise responsibility to ensure that the vessel does not engage in IUU fishing.
 - b) Before a vessel is registered it should have an accurate record and it should have authorization from the flag State and coastal State adjacent to it which shares the same straddling stocks.
 - c) Members are obliged to cooperate and exchange information on authorized vessels. The owner must ensure that an authorization to fish is issued when vessels are entered on the vessel register.
 - d) All straddling stocks caught within the EEZ of any coastal State that is a member of OFC should be landed and certified by a custom officer as having been caught in that coastal State by an authorized fishing vessel.

Strategies

Senior MCS Officer

- should get all available information about the Galapagos Beauty. This should be done in coordination with the Coordinator of the International MCS Network. There is no record of IUU fishing having been committed by the vessel. It has been sold recently to a resident of Falu and no records have yet been forwarded to Camilla. Previous records of the former owner showed that the vessel had been fishing in a responsible manner in Falu. The vessel is registered and authorized to fish in Falu.

Representative from the government Solicitor

- should review national legislation, subregional and regional arrangements and international law both binding and voluntary. National law permits vessels to fish in the EEZ but in a limited zone.

Chief Fisheries Officer

- should check records of all fishing vessels authorized to fish in Zoro's waters. The Galapagos Beauty has recently applied for an authorization to fish.

President of the Fishers Association

- in a letter to the Minister said that the results of a meeting of the Association showed that they agreed to the issuance of the authorization to fish for the Galapagos Beauty in Zoro's EEZ provided the vessel fished only within the limited zone and in compliance with national laws, including the payment of license fees and compliance with applicable subregional arrangements on MCS.

Minister

- should first rely on the subregional arrangements before applying its criminal laws. He should coordinate with the Director of OFC and undertake checks on the record of the new owner of the vessel. Although he is a resident of Falu, the new owner is a national of Camilla and has just set up a business office in Falu. The Minister has directed the Chief Fisheries Officer not to issue a license until the flag State has complied with its flag State responsibilities including keeping of records of all registered vessels and issuing the authorization to fish in another coastal State, once that coastal State has agreed that it will issue an authorization to fish for the vessel in its waters.

Director of OFC

- in a letter to the Minister of Zetland seeks its cooperation by applying its trade-related measures to specific stocks. The Director called a meeting of OFC members and cooperating States and has agreed on a new management measure; that all member and cooperating States should adopt NPOAs-IUU and a subregional strategy for MCS, including compliance with all flag State responsibilities. In that meeting, the Minister of Camilla requested assistance from OFC to develop its NPOA-IUU. Members agreed to seek help for Camilla from FAO. The Minister of Hella stated that his country will apply port State measures strictly and not permit the landing or transshipment of catches from vessels unless they provide copies of their authorizations to fish, details of fishing trip and quantities of fish on board.

REPORT OF WORKING GROUP 3

The following actions should be undertaken:

Minister

- To seek the cooperation between neighbouring States and importing countries.
- To seek the cooperation from line ministries such as the Ministry of Defence, Navy, coast guard, etc.
- To request a budget to enhance national capacity to combat IUU fishing.
- To inform Parliament about the strategy to deal with IUU fishing.

Chief Fisheries Officer

- To request Hella (port State) to refuse landings and transshipment of catches from the Galapagos Beauty.
- To formulate or strengthen the IPOA–IUU.

Representative from the Government Solicitor

- To review and revise existing laws and regulations relating to measures to combat IUU fishing.

Senior MCS Officer

- To enhance the national MCS development plan.
- To seek cooperation from fishers to support MCS operations.
- To coordinate and collaborate with MCS officers from neighbouring States.
- To inform the International MCS Network about the activities of the Galapagos Beauty.

President of Fishers Association

- To request members of the Association to disseminate information about IUU fishing.
- To inform members of the Association about actions being taken by the government against IUU fishing.
- To seek the cooperation of members of the Association not to engage in IUU fishing practices.

Coordinator of the International MCS Network

- To update records about the IUU fishing by the Galapagos Beauty.
- To seek cooperation from members of the Network to take action against the Galapagos Beauty.

Director of the Oceanic Fisheries Commission

- To request evidence from the Chief Fisheries Officer concerning the IUU fishing activities by the Galapagos Beauty and to place the vessel on the OFC's "blacklist".
- To urge members of the OFC to take all possible steps to combat IUU fishing.

REPORT OF WORKING GROUP 4

Minister

- To set up the meeting of the Committee to address the problem of the Galapagos Beauty.
- To propose to the Committee to confirm all the data available and the other data required.
- To write a letter to the Republic of Falu requesting confirmation of the owner of Galapagos Beauty and its registration.
- To request the port State of Hella not to accept landing from the Galapagos Beauty and to inform the Coordinator of the International MCS Network about the IUU fishing activities of the vessel. Also to request other members not to accept the catches of products from the vessel and further request the national supermarket chain of Zetland not to accept the catch from the Galapagos Beauty, including a request to terminate the forward contract for the catch because it is contraband.
- To request the Minister for Defence to assist in the apprehension of the Galapagos Beauty.
- To request the Oceanic Fisheries Commission (OFC) to blacklist the Galapagos Beauty and to pass this information on to other Members so that they use this information to apprehend the Galapagos Beauty while it is in their jurisdiction.

Chief Fisheries Officer

- To report to the Minister on the information gathered and to transmit it to the Government Solicitor.
- To request information from the Registry Manager of the Republic of Falu on the registration details of the Galapagos Beauty.
- To confirm whether pomp, cot and rouly are included on the CITES listing. If yes, to inform European and North American countries not to accept catch from the Galapagos Beauty or its owners/agents.

Representative of the Government Solicitor

- To request the MCS division to apprehend the Galapagos Beauty.
- To inform the International MCS Network about the IUU fishing activities of the Galapagos Beauty and request any information that the Network might have.
- To study legal instruments for the possible prosecution of crew members of the Galapagos Beauty.

Senior MCS Officer

- To inform the International MCS Network about the Galapagos Beauty and request any information the Network might have on the vessel because of Zoro's limited MCS capacity. Zoro would need the exact location of the vessel to facilitate apprehension.
- To provide data and other information available to the Chief Fisheries Officer and the Minister.
- To request Falu to inform the International MCS Network on the registration details of the Galapagos Beauty. If the Network can confirm that the vessel has more than one registration, it can be pursued and apprehended as a stateless vessel.

President of the Fishers Association

- To inform members to watch out for the Galapagos Beauty and, if sighted, immediately report the vessel's location to the MCS Officer and Chief Fisheries Officer.
- To request all members to report any incursions by foreign fishing vessels into Zoro's EEZ.

Coordinator of the International MCS Network

- To clarify information received from Zoro's Senior MCS Officer, to disseminate information received and to include the Galapagos Beauty on the Network's "blacklist" of vessels engaged in IUU fishing activities.

- To request members to track the movement of the Galapagos Beauty and to submit any information about the vessel to the Network.

Director of Oceanic Fisheries Commission

- To inform members about the Galapagos Beauty's IUU fishing activities and to request members to transmit data/information on the vessel to Zoro through the Minister.
- To "blacklist" the Galapagos Beauty if it is found to be an IUU fishing vessel.

REPORT OF WORKING GROUP 5

Assumptions

- The fisheries law of Zoro has clauses dealing with IUU fishing.
- Countries mentioned in the case are members of the Oceanic Fisheries Commission (OFC) and the International MCS Network.
- Inputs have been gathered in prior meetings.
- The meeting convened by the Minister will come up with a short-term strategy to combat the IUU fishing problem at hand.

Strategy

Preliminary Investigation

- Use the information provided in the case (e.g. the vessel has taken about 200 tonnes of fish; 4 days in Zoro's EEZ, Camilla has no record on its registry of the Galapagos Beauty).
- Zoro has at most two days to take action.

Information Gathering

- The Chief Fisheries Officer will ask the MCS officer to make a report on all information available about the vessel.
- The MCS officer will check with the International MCS Network and OFC to determine if they have information about the vessel (e.g. name, name of operator, name of owner, flag of registry, fishing authorization, and all other necessary information).

Surveillance

- Send a light aircraft to conduct close surveillance (e.g. take photos).

Information Advisory

- Inform the OFC about the activities of the vessel and request assistance to advise the port and other States about the IUU fishing activities of the vessel.
- Contact Camilla, Hella and Zetland to request them not to permit the Galapagos Beauty to land its fish or to sell its catch.

Apprehension

- Contact the captain of the Galapagos Beauty and ask him to stop fishing and go to the nearest port of Zoro.
- Dispatch the multi-purpose surveillance vessel.
- Apprehend and charge in court (confiscate catch and confiscate vessel - to be released upon posting of a reasonable bond)

Other Actions

- Contact the vessel owner.
- Contact the registry of flag.
- Inform the Fisher's Association of the actions taken by the Government.
- Inform Parliament of developments.

Specific Tasks

Minister

- Call a meeting to discuss the problem.
- Seek consensus to inform the public and Parliament on the actions being taken by the Government to address the problem.

Chief Fisheries Officer

- Instruct the MCS officer to obtain the necessary information from the International MCS Network and OFC.
- Deploy an aircraft to get a position of the Galapagos Beauty and to take photographs.
- Make contact with the Galapagos Beauty and inform the captain of the offences committed and instruct the vessel to go to port.
- Deploy an enforcement vessel to board Galapagos Beauty.

Government Solicitor

- Provide a legal view on offences committed by the vessel.
- Initiate proceedings in accordance with national and international law and policy framework.

Senior MCS Officer

- Acquire and transfer the information to relevant authorities and agencies in the countries concerned.
- Coordinate the deployment and enforcement of vessel and aircraft surveillance.

President of Fishers Association

- Inform stakeholders of the actions taken by the Government.
- Request fishers not to take any drastic action against Galapagos Beauty.

Coordinator of International MCS Network

- Provide information/data on the fishing activities of the Galapagos Beauty.
- Relay messages to RFMOs/States cooperating with the MCS Network.

Director of Fisheries Commission

- Provide information on the Galapagos Beauty if it is "blacklisted".
- Coordinate with members of OFC to facilitate Zoro's request not to permit port and market access to the Galapagos Beauty or its catch.

STEPS TO BE TAKEN IN DEVELOPING A NPOA-IUU

REPORT OF WORKING GROUP 1

- 1) **Which Ministries/Departments are involved in the elaboration of an NPOA-IUU?**
 - a) Ministry of Agriculture, Forestry and Fisheries
 - Department of Fisheries
 - b) Ministry of Interior
 - Economic Department
 - Local Authority
 - c) Ministry of Defence
 - Military Marine
 - Municipal Police
 - Local Military

b) and c) will perform duty when the fisheries department request.
- 2) **What constraints are likely to be faced in the elaboration of an NPOA-IUU?**
 - a) Lack of understanding on NPOA-IUU especially on the concept, objectives, policies and principles behind.
 - b) Lack of funds to develop NPOA-IUU for instance the budget for conducting workshops, seminars, training to produce experts on NPOA-IUU
 - c) Lack of foreign Technical assistance for the formulation of the NPOA-IUU
 - d) Language barrier
 - e) Lack of detailed information on the provisions to be incorporated in NPOA-IUU
- 3) **How can these constraints be overcome?**
 - a) Send fishery officers to attend workshops and seminars organised by FAO to gain better knowledge on NPOA-IUU
 - b) Request FAO, International organization, NGOs and the government to provide financial support.
 - c) Request technical assistance inclusive of communication/working accessories e.g. Computers, visual aids from FAO and International organization to assist in the formulation of NPOA-IUU during workshops and seminars
 - d) Usage of English language as a standard medium for initial formulation.
 - e) Obtaining information from other countries' fisheries situation and conditions
- 4) **How national resources could be mobilized for the elaboration of a NPOA-IUU?**
 - a) A national committee is to be formed comprising of competent officers from various government departments such as Department of Fisheries, Economic Police Department, Department of Crime, Department of Defence, Department of Environment for formulation of the NPOA-IUU.
 - b) Involve the specialists and the professors from universities and fisheries institutes have a
 - c) Involve the media to disseminate the information regarding the formulation of NPOA-IUU.

5) What considerations could affect the ability of countries to deliver a NPOA–IUU?

- a) pending the enactment of a new Fisheries Act
- b) The process to develop an official document on NPOA–IUU is long and tedious as it will undergo a painstaking scrutiny by the various organization, government sectors and stake holders.
- c) Various sectors such as fishermen and private entrepreneurs might protest/object to the provisions /contents of the official document as the implementation thereof would be for their disadvantage..

6) Steps to be undertaken in elaborating a NPOA–IUU

ACTIVITY	APPROVALS REQUIRED	STARTING DATE	FINISHING DATE
1. Policy review/development	Prime Minister	2004	2004
2. Legislation review/development	Minister	1999	2005
3. Develop the NPOA	Minister	Jan.2005	Jan.2007
4. Implementation of NPOA	Minister	2007 onwards	Revision every 4 years

REPORT OF WORKING GROUP 2

1) Which Ministries/Departments are involved in the elaboration of an NPOA–IUU?

- Transportation and Communication and attached agencies/units responsible for the registration of fishing vessels, maintenance of registry, implementation of applicable international and national maritime laws as well as manning/qualifications of officers and crew on board such vessels
- Agriculture/Fisheries/Environment responsible for the conservation, management and utilization of fisheries and aquatic resources including the issuance of authorization / license for fishing gears/fishing vessels, and implementation of provisions under international law, regional arrangements, national legislation and regulations/policies
 - MCS Unit/Network –all agencies mandated by law to enforce fisheries laws and regulations in the State’s maritime zones
 - Ports Authority/ies responsible for the implementation of obligations and rights of the State as a Port state including regulation of private and government ports, transshipment, landings
 - Technical Agency responsible for the preparation of charts/maps for the delineation of maritime zones/limited fishing zones/protected zones
 - Policy and Planning Unit- reviews all fisheries regulations that must be issued to manage the fisheries
 - In some cases, stakeholder consultation is necessary (co-management councils for specific stocks, industry-government policy recommendatory body)
- Foreign Affairs on international relations
- Economic Development/Planning that sets out the medium and long-term development plans for the fishing industry (all subsectors)
- The Ministry of Defence/Coast Guard/Maritime Police responsible for enforcement of fisheries laws

- The Ministry of Finance/for the appropriations/budget allocations for each ministry/department/Customs for border entry/exit of fishery products in all forms
- The Ministry of Justice/Prosecutorial Service/Immigration Department for review of laws, prosecution of fisheries cases/ implementation of immigration rules
- Legislative Branch which is responsible for passage/amendment of fisheries national legislations, ratification of treaties, international agreements, review and amendment of judicial and administrative fines/penalties for certain IUU activities not covered by existing legislation
- Judicial Courts responsible for trial of fisheries cases and rule making for the admission of evidence
- Prime Minister/Head of State
- Co-management bodies (fisheries councils, associations)

2) What constraints are likely to be faced in the elaboration of an NPOA–IUU?

- Insufficient legal bases in existing regulations/legislation to comply with/implement some of the state responsibilities(coastal, port, flag and all state) under the IPOA
- Inadequate human resources/capacity/logistics to develop the document
- Incomplete assessment and evaluation of the extent and nature of IUU fishing activities in all the maritime zones
- Coordinative mechanism/s among Ministries/Departments/Agencies and legislative branch/ judicial courts
- No specific allocation(financial) for the exercise
- Incomplete consolidation of available literature, research studies, stock assessments, landings, to elaborate the fisheries profile

3) How can these constraints be overcome ?

- To establish a committee composed of technical and legal experts from the respective ministries and from the two other branches (resource persons) to develop strategies in elaborating the NPOA.
- To make sure that the Finance Ministry will provide enough funding for preparation of the NPOA. Prime Minister/Head of State may be requested to issue a directive to provide funding/financial assistance from existing development projects.
- May request technical assistance from FAO and other donor agencies.
- Review policies/national legislation, regulation, to identify amendments or adjustments that will be proposed to the legislative/and or judicial branch –build up legislative agenda in parallel with the elaboration of NPOA.

4) How national resources could be mobilized for the elaboration of a NPOA–IUU?

- Identification of available financial assistance from existing development projects related to fisheries and harmonization of plans
- Core team from one of the projects would be requested to serve as the Secretariat for the coordinative committee and to call meetings, consultations, subcommittee deliberations

5) What considerations could affect the ability of countries to deliver a NPOA–IUU

- The elaboration may not be the priority of the legislative branch for the provisions that need national legislation
- Insufficient political will
- Stakeholder consultations may prolong the process (for the national legislation)
- Insufficient funding

- Further research/studies on fisheries situation may be needed
- NGOs and other donor agencies to support the technical assistant.

6) Steps to be undertaken in elaborating a NPOA–IUU

ACTIVITY	APPROVALS REQUIRED	STARTING DATE	FINISHING DATE
1. Policy review/development	Fisheries ministry- Minister Other ministers of respective ministries with respect to their mandates Authorities – review and approval of its board of directors	Nov-Dec 2004 (creation of committee)	Jan-June 2005
2. Legislation review/development	Legislative, Branch/Parliament, Cabinet, Prime Minister/Head of State	December 2004	2 years minimum-6 years maximum
3. Develop the NPOA Inter-Ministry Committee assisted by a Core team (technical expert /government/ academe/consultant who will link up with all ministries	Prime Minister/ Head of State	December 2004	March 2005 submit to FAO for comments
4. Implementation of NPOA	All the ministries/judicial branch	As soon as the NPOA is adopted by Head of State	

REPORT OF WORKING GROUP 3

- 1) **Which Ministries/Departments are involved in the elaboration of an NPOA–IUU?**
 - Ministry responsible for fisheries (Ministry of Fisheries/Agriculture/Marine Affairs)
 - Ministry of Foreign Affairs
 - Ministry of Transportation (in case fishing vessels is not handled by the Ministry of Fisheries)
 - Ministry of Natural Resources and Environment (for protection of natural resources and trade in endangered species)
 - Ministry of Interior Affairs and Defence (for coast guard, national security issues)
 - Ministry of Custom and Trade (for custom and trade)
 - Ministry of Finance (for budget)
- 2) **What constraints are likely to be faced in the elaboration of an NPOA–IUU?**

3) How can these constraints be overcome?

Constraints	To overcome by
<ul style="list-style-type: none"> ▪ Lack of common understanding on importance of as well as political will and a clear policy on combating with IUU fishing by the line ministry. 	<ul style="list-style-type: none"> ▪ Courtesy call and briefing to the line ministry on current situation, importance and impacts of IUU fishing and proposals. This can be supported by regional/international organizations.
<ul style="list-style-type: none"> ▪ Insufficient understanding/interpretation on the provision of IPOA/NPOA-IUU and capacity to develop an NPOA-IUU. 	<ul style="list-style-type: none"> ▪ To organize a national taskforce to understand IPOA-IUU. ▪ To translate/publicize the content and implications for action of IPOA-IUU.
<ul style="list-style-type: none"> ▪ Insufficient budget and capacity in the elaboration of NPOA-IUU. 	<ul style="list-style-type: none"> ▪ To conduct capacity building programs for relevant officers. ▪ To come up with specific budget from the government for the elaboration of NPOA-IUU. ▪ To seek additional financial assistance from NGOs, regional/international organizations
<ul style="list-style-type: none"> ▪ Myths and traditional practices that are considered IUU. 	<ul style="list-style-type: none"> ▪ To conduct awareness building for fishers and develop educational programs for children on significance of sustainable and responsible fisheries and impacts from IUU fishing.
<ul style="list-style-type: none"> ▪ Lack of legal framework to support the elaboration of NPOA-IUU 	<ul style="list-style-type: none"> ▪ To develop legal framework.
<ul style="list-style-type: none"> ▪ Lack of/ineffective supporting procedures to elaborate an NPOA-IUU such as licensing, MCS programs, etc. 	<ul style="list-style-type: none"> ▪ To review national policy related to IUU fishing, and supporting procedures required for the elaboration of NPOA-IUU.

4) How national resources could be mobilized for the elaboration of an NPOA-IUU?

- National resources for the elaboration of an NPOA-IUU are human resources (fishery managers, scientists, law enforcement officers, MCS officers, legal officers, technicians, supporting, mass media, professionals and so on), fisheries laws and regulations, financial resources, equipment, facilities, etc. required for the elaboration of an NPOA-IUU.
- Based on political will and clear policy, establish an inter-agency coordination mechanism to identify and mobilize existing national resources required for the elaboration of an NPOA-IUU.

5) What considerations could affect the ability of countries to deliver an NPOA-IUU?

- National consultation to finalize the NPOA-IUU
- Endorsement of agencies concerned and acceptance from stakeholders on the NPOA-IUU

6) Steps to be undertaken in elaborating an NPOA–IUU

Activity	Approvals Required	Starting Date	Finishing Date	Duration (Month)
1. Policy review/development	Department Ministry/Inter-agency	1 Jan. 05	15 Jan. 05	0.5
		16 Jan. 05	15 Feb. 05	1.0
2. Legislation review/development by concerned agencies	Department Ministry/Inter-agency Parliament	16 Feb. 05	15 May 05	3.0
		16 May 05	15 Jun. 05	1.0
		16 Jun. 05	28 Feb. 06	8.5
3. Develop a draft NPOA including consultation with FAO	Department Ministry	16 Feb. 05	15 May 05	3.0
		16 May 05	15 Jun. 05	1.0
4. National consultation to finalize the NPOA through public seminar, fishers association meetings, etc.	-	16 Jun. 05	15 Sep. 05	3.0
5. Submission for approval and public notification	Ministry	16 Sep. 05	15 Oct. 05	1.0
6. Implementation of NPOA	Department	16 Oct. 05	-	-
7. Promote regional cooperation to strengthen individual NPOA–IUU	-	16 Oct. 05	-	-
8. Conduct a regular review and revision of the NPOA	Ministry/Inter-agency	Biennial basis		

Notes:

1. Total timeframe for formulation and approval of NPOA–IUU is 9.5 months.

2. Total timeframe for legislation review/development is 12.5 months.

REPORT OF WORKING GROUP 4

1) Which Ministries/Departments are involved in the elaboration of an NPOA–IUU?

- Ministry of Agriculture/ Department of Fisheries

2) What constraints are likely to be faced in the elaboration of an NPOA–IUU

- Lack of effective fisheries legislation
- Need for consultation – need to define stakeholders (Resistance by stakeholders on the imposition of regulation)
- Lack of capacity for monitoring, control and surveillance (MCS) and Vessel Monitoring System (VMS) – domestic and regional
- Lack of coordination with other government agency to enforce fisheries act or law
- Lack of political will
- Contradictory policy with the spirit of NPOA
- Lack of scientific evidence/information
- Overlapping claim of fishing area
- Over capacity in number of fishing vessel
- Socio-economic problems of fishermen community
- Lack of budget/fund

3) How can these constraints be overcome?

- Undertake process for effective fishery legislation and consultation

- Upgrading facilities/infrastructure and HRD for MCS
- Establishment of domestic and regional MCS network
- Conduct strategic planning to identify government agencies that we need to integrate efforts
- Convince politician to act according to the needs of the public interest
- Conduct awareness campaigns and educate stakeholders on the need for imposition of the regulation
- Identify the contradictory policy and harmonize these policies
- Conduct and secure scientific information on bio-technology, stock assessment and fisheries biology
- Settlement of the claims through diplomatic channel or establishment of regional plan of action (RPOA-IUU) for dispute areas
- Convince and request the budget from government to implement NPOA-IUU
- Formulate/create an exiting plan
- Government to focus the development of the fishery industry in the community
- Need for technical and financial assistance from international organizations

4) How national resources could be mobilized for the elaboration of a NPOA-IUU?

- Enforcement of laws (NPOA) – Department of Fisheries, Coast Guard, Marine Police, Navy, Maritime Coordinator Centre, Port Authority, Community, Fisheries Association and Bureau of Custom.
- Education and awareness – Department of Fisheries, Stakeholders such as NGOs and fishermen organization. Ministry of Education (to include these subjects as part of school curriculum)
- Review of fisheries Law by Department of Fisheries and approved by Attorney General Office
- Increase capacity for MCS – Department of Fisheries, Ministry of Defend and Fishery Associations
- Food safety and quality – Fish inspectors and quality control to enforce food quality and eco-labelling enforcement

5) What considerations could affect the ability of countries to deliver a NPOA-IUU

- Time consuming for legislative process
- Length of time for consultation and coordination will depend on length of time taken to convince the stakeholders
- Availability of fund or budget

6) Steps to be undertaken in elaborating a NPOA-IUU

Activity	Approvals Required	Starting Date	Finishing Date
1. Policy review/development	Department of Fisheries	Jan 2005	June 2005
2. Legislation review/development	Attorney General Office and Cabinet	Jul 2005	Dec 2005
3. Develop NPOA	Department of Fisheries	Jan 2005	Dec 2005
4. Implement of NPOA	Coordinating Agencies	Jan 2006	Jun 2006

REPORT OF WORKING GROUP 5

1) Which Ministries/Departments are involved in the elaboration of an NPOA–IUU?

- Fisheries
- Foreign Affairs
- Environment
- Transport
- Port Authorities
- Enforcement authorities
- Coastguard
- Customs
- Defence
- Attorney General’s Office (Legal)
- Finance
- Economic Planning
- Trade And Industry
- Labour
- Immigration
- Home Affairs
- Local government

In some countries, two or more of the above functions may be undertaken by one entity, and vice versa.

2) What constraints are likely to be faced in the elaboration of an NPOA–IUU

- Capacity:
 - Human resource
 - Finance
 - Logistics
- Differing/Overlapping functions among some entities:
 - Priorities
 - Objectives
 - Visions
 - Missions
- Weak coordination among different entities
- Politicians and policy makers
- Widely dispersed information
- Legal framework
 - Current laws not aligned to address relevant international fisheries-related legal instruments

3) How can these constraints be overcome?

- Capacity building:
 - Human Resource
 - Training/Capacity building
 - Recruitment and selection of suitable officers
 - Awareness programme (stakeholders, politicians, policy makers)
 - Technical Assistance from developed countries
 - Finance

- Allocation of budget for all agencies concerned (e.g. Exit plan to reduce overcapacity and IUU fishing)
- Sourcing for funds from relevant international organizations and from the industry or NGOs.
- Logistics
 - Develop, expand and upgrade logistics (MCS, enforcement, communication, VMS, port facilities)
- Differing/Overlapping functions:
 - Identifying/Analysing/Agreeing on common functions
- Weak coordination among entities:
 - Top-down approach/directive
 - Identifying lead agency
- Politicians and policy makers:
 - Increase awareness of politicians and policy makers on IUU fishing (economic and social implications of IUU fishing)
- Widely dispersed information:
 - Establish and/or strengthen networking among relevant agencies by linking the different databases
 - Establish linkages with relevant RFMOs for information exchange
- Legal framework:
 - Review existing legal framework
 - Recommend a fast-track accession to international legal instruments

4) How national resources could be mobilized for the elaboration of a NPOA–IUU?

- Fisheries authorities to lead in the formulation of NPOA–IUU
- Forum and consultations:
 - Core group discussions/meetings
 - Expert group discussions/meetings
 - Consultative workshops with Stakeholders (fleet/vessel owners, financiers, fishermen associations, fishers representatives, fish traders, fish processors, NGOs, etc.)

5) What considerations could affect the ability of countries to deliver a NPOA–IUU

Considerations	Solutions
Possible contradictions with existing multi-lateral agreements	Review and revise multi-lateral agreements.
Not being a party or cooperating state to relevant RFMOs	<ul style="list-style-type: none"> • Membership to relevant RFMOs • Multi-lateral consultations and agreements in the absence of RFMOs
Non-signatory to relevant international fishery/legal instruments	Accession to legal instruments or comply with requirements under relevant international fishery/legal instruments
Social obligations of individual government to the welfare of fishing communities	
Long process of getting the legal framework in place.	
Existing maritime boundary problems.	

6) Steps to be undertaken in elaborating a NPOA-IUU

ACTIVITY	APPROVAL REQUIRED	START DATE	FINISH DATE
1. Policy review/development	- Each relevant entity	January 2005	June 2005
2. Legislation review/development	Act: - Parliament/Congress Regulations: - Minister/Cabinet	January 2005	December 2005
3. Develop the NPOA-IUU	- Cabinet/Minister/ Parliament	June 2005	December 2005
4. Implementation of NPOA-IUU	- Cabinet/Minister/ Parliament	January 2006	Monitor NPOA-IUU implementation every 6 months. Review every 4 years.

APPENDIX M

PRIORITY LISTING OF PROBLEMS BY COUNTRY FOR THE REGION AND PROPOSED ACTIONS TO COMBAT THESE PROBLEMS

Issue	Myanmar	Philippines	Malaysia	Indonesia	Lao PDR	China, PRO	Viet Nam	Cambodia	Thailand	Korea, DPR	Average	Rank
Use of prohibited gears and methods (dynamite, poisons, push nets, small mesh)	1	1	8	7	4	2	3	3	9	4	4.2	1
Inadequate MCS	3	4	1	11		6	4	9	2	2	4.7	2
Number of unregistered fishing vessels	5	9	4	3		3	6	8	7	11	5.6	3
Encroachment of foreign fishing vessels	2	2	2	1		10	8	11	6	8	5.6	3
Unauthorized fishing in management zones	6	3	3	5	1	13	7	7	11	7	6.3	5
Unauthorized fishing in closed areas/seasons	11	12	5	6	2	1	9	2	10	5	6.3	5
Unreporting/misreporting of catches	7	5	7	10	9	14	1	4	4	3	6.4	7
Number of unauthorized vessels/gears	4	10	6	4		4	2	10	8	12	6.7	8
Inadequate legislation for IUU fishing/MCS	8	8	13	12	8	7	5	1	1	15	7.8	9
Lack of coordination/communications between administrations	13	13	9	8	5	15	13	6	3	9	9.4	10
Inadequate regional cooperation on IUU fishing issues	15	14	10	2	7	9	10	13	5	13	9.8	11
Fishing unauthorized species	9	11	14	14	3	12	11	15	12	1	10.2	12
Lack of cooperation between central and local governments as well as among local governments	12	15	11	9	6	8	14	5	13	14	10.7	13
Fishing endangered species	10	6	12	15		11	12	12	15	6	11.0	14
Un-seaworthy vessels (not certified)	14	7	15	13		5	15	14	14	10	11.9	15

Issue	Action
Use of prohibited gears and methods (dynamite, poisons, push nets, small mesh)	<ul style="list-style-type: none"> - Terminate/cancel fishing licence - Confiscate the catch - Control the sale of dynamite and poisons - Impose stricter measures for dynamite fishing - Awareness building programs - Improve livelihoods (e.g. education, health, income)
Inadequate MCS	<ul style="list-style-type: none"> - Involve stakeholders in MCS - Encourage regional cooperation on MCS
Number of unregistered fishing vessels	<ul style="list-style-type: none"> - Register all fishing vessels - Strengthen enforcement and sanctions
Encroachment of foreign fishing vessels	<ul style="list-style-type: none"> - Regional cooperation including bilateral arrangement - Regional cooperation in MCS - Develop a RFMO - Strengthen maritime delimitation
Unauthorized fishing in management zones	<ul style="list-style-type: none"> - Strengthen enforcement and sanctions - Conduct awareness building programs - Involve fishing communities - Develop fishing zones
Unauthorized fishing in closed areas/seasons	<ul style="list-style-type: none"> - Strengthen enforcement and sanctions - Conduct awareness building programs - Involve fishing communities
Unreporting/misreporting of catches	<ul style="list-style-type: none"> - Condition in the licence - Strengthen port state control measures - Strengthen monitoring system - Use of logbooks - Develop observer programmes
Number of unauthorized vessels/gears	<ul style="list-style-type: none"> - licence registered for all vessels/gear - Moratorium on issuance of new fishing gear/vessel license to effect the inventory - Develop programmes to reduce fishing vessel number - Develop alternative livelihoods - Strengthen enforcement and sanctions
Inadequate legislation for IUU fishing/MCS	<ul style="list-style-type: none"> - Review and modify existing legislation
Lack of coordination/ communications between administrations	<ul style="list-style-type: none"> - Strong policy directives on inter-agency coordination - Sharing information and networking
Inadequate regional cooperation on IUU fishing issues	<ul style="list-style-type: none"> - Expand bilateral to multilateral agreement - Use existing sub-regional organizations/arrangements
Fishing unauthorized species	<ul style="list-style-type: none"> - Educate fishers on fish species - Public awareness programmes - Heavy penalties - Promote the use of selective fishing gears
Fishing endangered species	<ul style="list-style-type: none"> - Educate fishers on fish species - Public awareness programmes - Heavy penalties - Promote the use of by-catch reduction devices
Lack of cooperation between central and local governments as well as among local governments	<ul style="list-style-type: none"> - Strong policy directives on inter-agency coordination - Sharing information and networking - Devolve responsibilities to local government
Un-seaworthy vessels (not certified)	<ul style="list-style-type: none"> - Strengthen port inspection - Refuse registration/licensing

This document contains the report of, and some of the papers presented at, the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – Southeast Asia Subregion which was held in Penang, Malaysia, from 10 to 14 October 2004. The purpose of the Workshop was to assist countries in Southeast Asia, China and the Democratic People's Republic of Korea to develop capacity so that they would be better placed to elaborate national plans of action to prevent, deter and eliminate illegal, unreported and unregulated fishing (NPOAs-IUU). The Workshop addressed the 2001 international Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) in detail and the Technical Guidelines that have been developed to support the implementation of the IPOA-IUU; concepts of planning and the elaboration of action plans; a case study for the development of a NPOA-IUU; and decision-making about IUU fishing and school enhancement through the identification of key issues related to the NPOA-IUU, the primary vehicle by which the IPOA-IUU will be implemented by countries. Working groups were formed to encourage maximum participation in the Workshop. A review of the major IUU fishing problems in the region and their possible solutions were discussed.

