



~~Agenda item 5.3(b)
For information~~

Council

CNL(01)20

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

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

1. In response to reports of increased illegal, unreported and unregulated (IUU) fishing, the Food and Agriculture Organization (FAO) of the United Nations declared in 1999 that it intended “to develop a global plan of action to deal effectively with all forms of illegal, unregulated and unreported fishing, including fishing vessels flying “flags of convenience”, through coordinated efforts by States, FAO, relevant regional fisheries management bodies and other relevant international agencies such as the International Maritime Organization (IMO)”. Last year the representative of the USA drew the attention of the Council to a preliminary draft of an International Plan of Action (IPOA) on IUU fishing, which had been developed by an FAO expert consultation. The Council welcomed this initiative and asked that the Secretary report on its progress. Following further work, a draft IPOA on IUU fishing was presented for adoption at the Twenty-fourth Session of FAO’s Committee on Fisheries (COFI) and was approved by consensus on 2 March 2001. The Committee on Fisheries urged all members to take the necessary steps to effectively implement the IPOA.
2. The IPOA is voluntary and was elaborated within the framework of the FAO Code of Conduct for Responsible Fisheries. The objective of the IPOA is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations established in accordance with international law. The IPOA consists of the following sections:
 - I Introduction
 - II Nature and Scope of IUU fishing and the International Plan of Action
 - III Objectives and Principles
 - IV Implementation of measures to Prevent, Deter and Eliminate IUU fishing
 - All State Responsibilities
 - Flag State Responsibilities
 - Coastal State Measures
 - Port State Measures
 - Internationally Agreed Market – Related Measures
 - Research
 - Regional Fisheries Management Organizations
 - V Special Requirements of Developing Countries
 - VI Reporting
 - VII Role of FAO
3. The IPOA comprises ninety-three paragraphs and is sixteen pages long. A detailed review of the document is not presented here but copies are available from the NASCO Secretariat. The definitions of illegal, unreported and unregulated fishing in the IPOA include the following:

- illegal fishing refers to fishing activities conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
 - unreported fishing refers to fishing activities which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations;
 - unregulated fishing refers to fishing activities in the area of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that Organization, or by a fishing entity, in a manner that is not consistent with, or contravenes, the conservation and management measures of that organization.
4. Although these definitions are not particularly appropriate to salmon fishing, there are two main issues being addressed by the Council of relevance to the FAO IPOA. These are unreported catches (including those arising from illegal fishing) by the Contracting Parties ~~(see agenda item 5.3(a), document CNL(01)19)~~ and unregulated fishing by non-contracting Parties in international waters in the North-East Atlantic Commission ~~(see agenda item 5.7, document CNL(01)23)~~. In addition, the Council is concerned about the level of harvests of salmon at St Pierre and Miquelon. Although this fishery is subject to domestic regulations and a bilateral agreement with Canada, the Council is taking action consistent with the FAO IPOA.
5. There follows a brief review of those elements of the IPOA applicable to regional fisheries management organizations which are most relevant to NASCO. We have indicated in italics below each section the action already taken by NASCO and future action that might be taken in accordance with the IPOA. The elements are as follows:
- (i) States should ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant regional fisheries management organization and by which they are bound.
- NASCO action:*
- So far as we are aware, there is no problem of compliance with, and enforcement of, regulatory measures agreed within NASCO.*
- The Council is concerned about the continuing high level of unreported catches of its Contracting Parties ~~(illegal fishing appears to be a particular problem in some countries)~~ (see CNL(01)19).*
- (ii) States which are not members of a relevant regional fisheries management organization should apply the conservation and management measures established by that organization or adopt measures consistent with these conservation and management measures and should ensure that vessels entitled to fly their flag do not undermine such measures.

NASCO action:

The Council has adopted a Protocol for States not Party to the Convention for the Conservation of Salmon in the North Atlantic Ocean, calling for each Party to the Protocol to prohibit fishing for salmon beyond areas of fisheries jurisdiction. The St Pierre and Miquelon salmon fishery is not regulated by NASCO.

The Council's Resolution Concerning St Pierre and Miquelon, adopted in 2000, urged France to set harvest levels at the lowest possible level consistent with the advice from ICES. It also requests France to inform NASCO of the measures it has taken to address NASCO's concerns about harvest levels at St Pierre and Miquelon. The issue of whether to invite France (in respect of St Pierre and Miquelon) to become a Contracting Party to NASCO will be considered by the Council at its Annual Meeting (see ~~CNL(01)30~~).

- (iii) States, acting through relevant regional fisheries management organizations, should take action to strengthen and develop innovative ways to prevent, deter and eliminate IUU fishing including: institutional strengthening of relevant regional fisheries management organizations; exchange of information on vessels engaged in or supporting IUU fishing; and development of action plans.

NASCO action:

NASCO has been able to successfully deal with the issue of IUU fishing by non-Contracting Parties under its existing institutional structure.

Mechanisms have previously been agreed for exchange of information in relation to fishing for salmon in international waters in the Resolution on Fishing for Salmon on the High Seas adopted in 1992. This states that Contracting Parties should transmit to the Secretary information concerning sightings of fishing activities on the high seas of the North Atlantic which may undermine NASCO's conservation measures. We have also taken steps to coordinate surveillance activities and enhance the flow of information from these activities.

NASCO's Contracting Parties now provide information on unreported catches to the Council on an annual basis. In view of continuing concern about the high level of unreported catches by the Parties, the Council might wish to consider whether there would be benefits from developing an action plan containing measures to further minimise unreported catches.

- (iv) States, acting through relevant regional fisheries management organizations, should compile and make available on a timely basis, and at least on an annual basis, to other regional fisheries management organizations and to FAO, information relevant to prevention, deterrence and elimination of IUU fishing.

NASCO action:

NASCO already makes this information available to FAO through the Coordinating Working Party on Fishery Statistics and the biennial meetings of Regional Fishery Bodies.

We are liaising with NEAFC with a view to obtaining relevant information on sightings. The Council has agreed to hold a joint meeting with all North Atlantic fisheries Commissions on issues of mutual interest.

- (v) States, acting through relevant regional fisheries management organizations, should encourage non-contracting Parties with a real interest in the fishery concerned to join these organizations and to participate fully in their work. Where this is not possible, the regional fisheries management organizations should encourage and facilitate the participation and cooperation of non-contracting Parties, in the conservation and management of the relevant fisheries resources and in the implementation of measures adopted by the relevant organizations.

NASCO action:

All coastal States within the Convention area with Atlantic salmon interests are Parties to NASCO, except St Pierre and Miquelon.

The issue of whether or not to invite France (in respect of St Pierre and Miquelon) to become a Contracting Party to NASCO is under consideration (see (ii) above).

The NASCO Protocol referred to in paragraph (ii) above calls for each Party to prohibit fishing for salmon beyond areas of fishery jurisdiction.

- (vi) When a State fails to ensure that fishing vessels entitled to fly its flag, or, to the greatest extent possible, that its nationals do not engage in IUU fishing activities that affect the fish stocks covered by a relevant regional fisheries management organization, the member States, acting through the organization, should draw the problem to the attention of that State. If the problem is not rectified, the members of the organization may agree to adopt appropriate measures, through agreed procedures, in accordance with international law.

NASCO action:

In accordance with NASCO's Resolution on Fishing for Salmon on the High Seas adopted in 1992, the Secretary was requested to draw the attention of the Non-Contracting Parties concerned to the activities of their vessels. Diplomatic notes were sent to Poland and Panama.

6. In summary, when implemented, the IPOA in conjunction with the existing FAO Compliance Agreement would appear to be a helpful initiative. NASCO has, in fact, already undertaken most of the proposals in the IPOA. Nevertheless, it should assist NASCO in relation to the problem of fishing for salmon in international waters should this recur. It may also be relevant to NASCO's work in minimising unreported catches and in relation to the St Pierre and Miquelon salmon fishery.

Secretary
Edinburgh
9 April, 2001

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what it is – what it does

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The Food and Agriculture Organization of the United Nations

was founded in 1945 with a mandate to raise levels of nutrition and standards of living, to improve agricultural productivity, and to better the condition of rural populations.

Today, FAO is the largest specialized agency in the United Nations system and the lead agency for agriculture, forestry, fisheries and rural development. An intergovernmental organization, FAO has 180 member countries plus one member organization, the European Community.

Since its inception, FAO has worked to alleviate poverty and hunger by promoting agricultural development, improved nutrition and the pursuit of food security - defined as the access of all people at all times to the food they need for an active and healthy life.

Food production has increased at an unprecedented rate since FAO was founded in



R. Faidutti/17346/Indonesia

1945, outpacing the doubling of the world's population over the same period. Since the early 1960s, the proportion of hungry people in the developing world has been reduced from more than 50 percent to less than 20 percent. Despite these gains, however, more than 790 million people in the developing world - more than the total population of North America and Western Europe combined - still go hungry.

A specific priority of the Organization is encouraging sustainable agriculture and rural development, a long-term strategy for increasing food production and food security while conserving and managing natural resources. The aim is to meet the needs of both present and future generations by promoting development that does not degrade the environment and is technically appropriate, economically viable and socially acceptable.

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FAO, 2001
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**INTERNATIONAL PLAN OF ACTION
TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED
AND UNREGULATED FISHING**

I. INTRODUCTION

1. In the context of the Code of Conduct for Responsible Fisheries and its overall objective of sustainable fisheries, the issue of illegal, unreported and unregulated (IUU) fishing in world fisheries is of serious and increasing concern. IUU fishing undermines efforts to conserve and manage fish stocks in all capture fisheries. When confronted with IUU fishing, national and regional fisheries management organizations can fail to achieve management goals. This situation leads to the loss of both short and long-term social and economic opportunities and to negative effects on food security and environmental protection. IUU fishing can lead to the collapse of a fishery or seriously impair efforts to rebuild stocks that have already been depleted. Existing international instruments addressing IUU fishing have not been effective due to a lack of political will, priority, capacity and resources to ratify or accede to and implement them.

2. The Twenty-third Session of the FAO Committee on Fisheries (COFI) in February 1999 addressed the need to prevent, deter and eliminate IUU fishing. The Committee was concerned about information presented indicating increases in IUU fishing, including fishing vessels flying "flags of convenience". Shortly afterwards, an FAO Ministerial Meeting on Fisheries in March 1999 declared that, without prejudice to the rights and obligations of States under international law, FAO "will develop a global plan of action to deal effectively with all forms of illegal, unregulated and unreported fishing including fishing vessels flying "flags of convenience" through coordinated efforts by States, FAO, relevant regional fisheries management bodies and other relevant international agencies such as the International Maritime Organization (IMO), as provided in Article IV of the Code of Conduct. The Government of Australia, in cooperation with FAO, organized an Expert Consultation on Illegal, Unreported and Unregulated Fishing in Sydney, Australia, from 15 to 19 May 2000. Subsequently, an FAO Technical Consultation on Illegal, Unreported and Unregulated Fishing was held in Rome from 2 to 6 October 2000 and a further Technical Consultation was held in Rome from 22 to 23 February 2001. The draft International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was adopted by the Consultation on 23 February 2001 with a request that the report be submitted to the Twenty-fourth Session of COFI for consideration and eventual adoption. COFI approved the International Plan of Action, by consensus, on 2 March 2001. In doing so, the Committee urged all Members to take the necessary steps to effectively implement the International Plan of Action.

II. NATURE AND SCOPE OF IUU FISHING AND THE INTERNATIONAL PLAN OF ACTION

3. In this document:

3.1 Illegal fishing refers to activities:

3.1.1 conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

3.1.2 conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

3.1.3 in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

3.2 Unreported fishing refers to fishing activities:

3.2.1 which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or

3.2.2 undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

3.3 Unregulated fishing refers to fishing activities:

3.3.1 in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or

3.3.2 in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

3.4 Notwithstanding paragraph 3.3, certain unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under the International Plan of Action (IPOA).

4. The IPOA is voluntary. It has been elaborated within the framework of the FAO Code of Conduct for Responsible Fisheries as envisaged by Article 2 (d).

5. The FAO Code of Conduct for Responsible Fisheries, in particular Articles 1.1, 1.2, 3.1, and 3.2 applies to the interpretation and application of this IPOA and its relationship with other international instruments. The IPOA is also directed as appropriate towards fishing entities as referred to in the Code of Conduct. The IPOA responds to fisheries specific issues and nothing in it prejudices the positions of States in other fora.

6. In this document:

- (a) the reference to States includes regional economic integration organizations in matters within their competence;
- (b) the term "regional" includes sub-regional, as appropriate;
- (c) the term "regional fisheries management organization" means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish fishery conservation and management measures;
- (d) the term "conservation and management measures" means measures to conserve one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law;
- (e) the term "1982 UN Convention" refers to the United Nations Convention on the Law of the Sea of 10 December 1982;

(f) the term "1993 FAO Compliance Agreement" refers to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved by the FAO Conference on 24 November 1993.

(g) the term "1995 UN Fish Stocks Agreement" refers to the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; and

(h) the term "Code of Conduct" refers to the FAO Code of Conduct for Responsible Fisheries.

7. This document is a further commitment by all States to implement the Code of Conduct.

III. OBJECTIVE AND PRINCIPLES

8. The objective of the IPOA is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations established in accordance with international law.

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

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

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

9.3 Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the flag State and using all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where appropriate, and to cooperate in order to ensure that measures are applied in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing.

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

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

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

IV. IMPLEMENTATION OF MEASURES TO PREVENT, DETER AND ELIMINATE IUU FISHING

ALL STATE RESPONSIBILITIES

International Instruments

10. States should give full effect to relevant norms of international law, in particular as reflected in the 1982 UN Convention, in order to prevent, deter and eliminate IUU fishing.
11. States are encouraged, as a matter of priority, to ratify, accept or accede to, as appropriate, the 1982 UN Convention, the 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement. Those States that have not ratified, accepted or acceded to these relevant international instruments should not act in a manner inconsistent with these instruments.
12. States should implement fully and effectively all relevant international fisheries instruments which they have ratified, accepted or acceded to.
13. Nothing in the IPOA affects, or should be interpreted as affecting, the rights and obligations of States under international law. Nothing in the IPOA affects, or should be interpreted as affecting, the rights and obligations contained in the 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, for States parties to those instruments.
14. States should fully and effectively implement the Code of Conduct and its associated International Plans of Action.
15. States whose nationals fish on the high seas in fisheries not regulated by a relevant regional fisheries management organization should fully implement their obligations under Part VII of the 1982 UN Convention to take measures with respect to their nationals as may be necessary for the conservation of the living resources of the high seas.

National Legislation

Legislation

16. National legislation should address in an effective manner all aspects of IUU fishing.
17. National legislation should address, *inter alia*, evidentiary standards and admissibility including, as appropriate, the use of electronic evidence and new technologies.

State Control over Nationals

18. In the light of relevant provisions of the 1982 UN Convention, and without prejudice to the primary responsibility of the flag State on the high seas, each State should, to the greatest extent possible, take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing. All States should cooperate to identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing.
19. States should discourage their nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities.

Vessels without Nationality

20. States should take measures consistent with international law in relation to vessels without nationality on the high seas involved in IUU fishing.

Sanctions

21. States should ensure that sanctions for IUU fishing by vessels and, to the greatest extent possible, nationals under its jurisdiction are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing. This may include the adoption of a civil sanction regime based on an administrative penalty scheme. States should ensure the consistent and transparent application of sanctions.

Non Cooperating States

22. All possible steps should be taken, consistent with international law, to prevent, deter and eliminate the activities of non-cooperating States to a relevant regional fisheries management organization which engage in IUU fishing.

Economic Incentives

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

Monitoring, Control and Surveillance

24. States should undertake comprehensive and effective monitoring, control and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination, including by:

24.1 developing and implementing schemes for access to waters and resources, including authorization schemes for vessels;

24.2 maintaining records of all vessels and their current owners and operators authorized to undertake fishing subject to their jurisdiction;

24.3 implementing, where appropriate, a vessel monitoring system (VMS), in accordance with the relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry VMS on board;

24.4 implementing, where appropriate, observer programmes in accordance with relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry observers on board;

24.5 providing training and education to all persons involved in MCS operations;

24.6 planning, funding and undertaking MCS operations in a manner that will maximize their ability to prevent, deter and eliminate IUU fishing;

24.7 promoting industry knowledge and understanding of the need for, and their cooperative participation in, MCS activities to prevent, deter and eliminate IUU fishing;

24.8 promoting knowledge and understanding of MCS issues within national judicial systems;

24.9 establishing and maintaining systems for the acquisition, storage and dissemination of MCS data, taking into account applicable confidentiality requirements;

24.10 ensuring effective implementation of national and, where appropriate, internationally agreed boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and of inspection officers, and noting that such regimes are provided for in

certain international agreements, such as the 1995 UN Fish Stocks Agreement, and only apply to the parties to those agreements.

National Plans of Action

25. States should develop and implement, as soon as possible but not later than three years after the adoption of the IPOA, national plans of action to further achieve the objectives of the IPOA and give full effect to its provisions as an integral part of their fisheries management programmes and budgets. These plans should also include, as appropriate, actions to implement initiatives adopted by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing. In doing so, States should encourage the full participation and engagement of all interested stakeholders, including industry, fishing communities and non-governmental organizations.

26. At least every four years after the adoption of their national plans of action, States should review the implementation of these plans for the purpose of identifying cost-effective strategies to increase their effectiveness and to take into account their reporting obligations to FAO under Part VI of the IPOA.

27. States should ensure that national efforts to prevent, deter and eliminate IUU fishing are internally coordinated.

Cooperation between States

28. States should coordinate their activities and cooperate directly, and as appropriate through relevant regional fisheries management organizations, in preventing, deterring and eliminating IUU fishing. In particular, States should:

28.1 exchange data or information, preferably in standardized format, from records of vessels authorized by them to fish, in a manner consistent with any applicable confidentiality requirements;

28.2 cooperate in effective acquisition, management and verification of all relevant data and information from fishing;

28.3 allow and enable their respective MCS practitioners or enforcement personnel to cooperate in the investigation of IUU fishing, and to this end States should collect and maintain data and information relating to such fishing;

28.4 cooperate in transferring expertise and technology;

28.5 cooperate to make policies and measures compatible;

28.6 develop cooperative mechanisms that allow, *inter alia*, rapid responses to IUU fishing; and

28.7 cooperate in monitoring, control and surveillance, including through international agreements.

29. In the light of Article VI of the 1993 FAO Compliance Agreement, flag States should make available to FAO and, as appropriate, to other States and relevant regional or international organizations, information about vessels deleted from their records or whose authorization to fish has been cancelled and to the extent possible, the reasons therefor.

30. In order to facilitate cooperation and exchange of information, each State and regional or international organization should nominate and publicize initial formal contact points.

31. Flag States should consider entering into agreements or arrangements with other States and otherwise cooperate for the enforcement of applicable laws and conservation and management measures or provisions adopted at a national, regional or global level.

Publicity

32. States should publicize widely, including through cooperation with other States, full details of IUU fishing and actions taken to eliminate it, in a manner consistent with any applicable confidentiality requirements.

Technical Capacity and Resources

33. States should endeavour to make available the technical capacity and resources which are needed to implement the IPOA. This should include, where appropriate, the establishment of special funds at the national, regional or global level. In this respect, international cooperation should play an important role.

FLAG STATE RESPONSIBILITIES

Fishing Vessel Registration

34. States should ensure that fishing vessels entitled to fly their flag do not engage in or support IUU fishing.

35. A flag State should ensure, before it registers a fishing vessel, that it can exercise its responsibility to ensure that the vessel does not engage in IUU fishing.

36. Flag States should avoid flagging vessels with a history of non-compliance except where:

36.1 the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or

36.2 having taken into account all relevant facts, the flag State determines that flagging the vessel would not result in IUU fishing.

37. All States involved in a chartering arrangement, including flag States and other States that accept such an arrangement, should, within the limits of their respective jurisdictions, take measures to ensure that chartered vessels do not engage in IUU fishing.

38. Flag States should deter vessels from reflagging for the purposes of non-compliance with conservation and management measures or provisions adopted at a national, regional or global level. To the extent practicable, the actions and standards flag States adopt should be uniform to avoid creating incentives for vessel owners to reflag their vessels to other States.

39. States should take all practicable steps, including denial to a vessel of an authorization to fish and the entitlement to fly that State's flag, to prevent "flag hopping"; that is to say, the practice of repeated and rapid changes of a vessel's flag for the purposes of circumventing conservation and management measures or provisions adopted at a national, regional or global level or of facilitating non-compliance with such measures or provisions.

40. Although the functions of registration of a vessel and issuing of an authorization to fish are separate, flag States should consider conducting these functions in a manner which ensures each gives appropriate consideration to the other. Flag States should ensure appropriate links between the operation of their vessel registers and the record those States keep of their fishing vessels. Where such

functions are not undertaken by one agency, States should ensure sufficient cooperation and information sharing between the agencies responsible for those functions.

41. A Flag State should consider making its decision to register a fishing vessel conditional upon its being prepared to provide to the vessel an authorization to fish in waters under its jurisdiction, or on the high seas, or conditional upon an authorization to fish being issued by a coastal State to the vessel when it is under the control of that flag State.

Record of Fishing Vessels

42. Each flag State should maintain a record of fishing vessels entitled to fly its flag. Each flag State's record of fishing vessels should include, for vessels authorized to fish on the high seas, all the information set out in paragraphs 1 and 2 of Article VI of the 1993 FAO Compliance Agreement, and may also include, *inter alia*:

42.1 the previous names, if any and if known;

42.2 name, address and nationality of the natural or legal person in whose name the vessel is registered ;

42.3 name, street address, mailing address and nationality of the natural or legal persons responsible for managing the operations of the vessel;

42.4 name, street address, mailing address and nationality of natural or legal persons with beneficial ownership of the vessel;

42.5 name and ownership history of the vessel, and, where this is known, the history of non-compliance by that vessel, in accordance with national laws, with conservation and management measures or provisions adopted at a national, regional or global level; and

42.6 vessel dimensions, and where appropriate, a photograph, taken at the time of registration or at the conclusion of any more recent structural alterations, showing a side profile view of the vessel.

43. Flag States may also require the inclusion of the information in paragraph 42 in their record of fishing vessels that are not authorized to fish on the high seas.

Authorization to Fish

44. States should adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with international law for the high seas , in particular the rights and duties set out in articles 116 and 117 of the 1982 UN Convention, or in conformity with national legislation within areas of national jurisdiction.

45. A flag State should ensure that each of the vessels entitled to fly its flag fishing in waters outside its sovereignty or jurisdiction holds a valid authorization to fish issued by that flag State. Where a coastal State issues an authorization to fish to a vessel, that coastal State should ensure that no fishing in its waters occurs without an authorization to fish issued by the flag State of the vessel.

46. Vessels should have an authorization to fish and where required carry it on board. Each State's authorization should include, but need not be limited to:

46.1 the name of the vessel, and, where appropriate, the natural or legal person authorized to fish;

46.2 the areas, scope and duration of the authorization to fish; and

46.3 the species, fishing gear authorized, and where appropriate, other applicable management measures.

47. Conditions under which an authorization is issued may also include, where required:

47.1 vessel monitoring systems;

47.2 catch reporting conditions, such as:

47.2.1 time series of catch and effort statistics by vessel;

47.2.2 total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery period (nominal weight is defined as the live weight equivalent of the catch);

47.2.3 discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

47.2.4 effort statistics appropriate to each fishing method; and

47.2.5 fishing location, date and time fished and other statistics on fishing operations.

47.3 reporting and other conditions for transshipping, where transshipping is permitted;

47.4 observer coverage;

47.5 maintenance of fishing and related log books;

47.6 navigational equipment to ensure compliance with boundaries and in relation to restricted areas;

47.7 compliance with applicable international conventions and national laws and regulations in relation to maritime safety, protection of the marine environment, and conservation and management measures or provisions adopted at a national, regional or global level;

47.8 marking of its fishing vessels in accordance with internationally recognized standards, such as the FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels. Vessels' fishing gear should similarly be marked in accordance with internationally recognized standards;

47.9 where appropriate, compliance with other aspects of fisheries arrangements applicable to the flag State; and

47.10 the vessel having a unique, internationally recognized identification number, wherever possible, that enables it to be identified regardless of changes in registration or name over time.

48. Flag States should ensure that their fishing, transport and support vessels do not support or engage in IUU fishing. To this end, flag States should ensure that none of their vessels re-supply fishing vessels engaged in such activities or transship fish to or from these vessels. This paragraph is without prejudice to the taking of appropriate action, as necessary, for humanitarian purposes, including the safety of crew members.

49. Flag States should ensure that, to the greatest extent possible, all of their fishing, transport and support vessels involved in transshipment at sea have a prior authorization to transship issued by the flag State, and report to the national fisheries administration or other designated institution:

49.1 the date and location of all of their transshipments of fish at sea;

49.2 the weight by species and catch area of the catch transshipped;

49.3 the name, registration, flag and other information related to the identification of the vessels involved in the transshipment; and

49.4 the port of landing of the transshipped catch.

50. Flag States should make information from catch and transshipment reports available, aggregated according to areas and species, in a full, timely and regular manner and, as appropriate, to relevant national, regional and international organizations, including FAO, taking into account applicable confidentiality requirements.

COASTAL STATE MEASURES

51. In the exercise of the sovereign rights of coastal States for exploring and exploiting, conserving and managing the living marine resources under their jurisdiction, in conformity with the 1982 UN Convention and international law, each coastal State should implement measures to prevent, deter and eliminate IUU fishing in the exclusive economic zone. Among the measures which the coastal State should consider, consistent with national legislation and international law, and to the extent practicable and appropriate, are:

51.1 effective monitoring, control and surveillance of fishing activities in the exclusive economic zone;

51.2 cooperation and exchange of information with other States, where appropriate, including neighbouring coastal States and with regional fisheries management organizations;

51.3 to ensure that no vessel undertakes fishing activities within its waters without a valid authorization to fish issued by that coastal State;

51.4 to ensure that an authorization to fish is issued only if the vessel concerned is entered on a record of vessels;

51.5 to ensure that each vessel fishing in its waters maintains a logbook recording its fishing activities where appropriate;

51.6 to ensure that at-sea transshipment and processing of fish and fish products in coastal State waters are authorized by that coastal State, or conducted in conformity with appropriate management regulations;

51.7 regulation of fishing access to its waters in a manner which will help to prevent, deter and eliminate IUU fishing; and

51.8 avoiding licensing a vessel to fish in its waters if that particular vessel has a history of IUU fishing, taking into account the provisions of paragraph 36.

PORT STATE MEASURES

52. States should use measures, in accordance with international law, for port State control of fishing vessels in order to prevent, deter and eliminate IUU fishing. Such measures should be implemented in a fair, transparent and non-discriminatory manner.

53. When used in paragraphs 52 to 64, port access means admission for foreign fishing vessels to ports or offshore terminals for the purpose of, *inter alia*, refuelling, re-supplying, transshipping and landing, without prejudice to the sovereignty of a coastal State in accordance with its national law and article 25.2 of the 1982 UN Convention and other relevant international law.

54. Notwithstanding paragraphs 52, 53 and 55; a vessel should be provided port access, in accordance with international law, for reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

55. Prior to allowing a vessel port access, States should require fishing vessels and vessels involved in fishing related activities seeking permission to enter their ports to provide reasonable advance notice of their entry into port, a copy of their authorization to fish, details of their fishing trip and quantities of fish on board, with due regard to confidentiality requirements, in order to ascertain whether the vessel may have engaged in, or supported, IUU fishing.

56. Where a port State has clear evidence that a vessel having been granted access to its ports has engaged in IUU fishing activity, the port State should not allow the vessel to land or transship fish in its ports, and should report the matter to the flag State of the vessel.

57. States should publicize ports to which foreign flagged vessels may be permitted admission and should ensure that these ports have the capacity to conduct inspections.

58. In the exercise of their right to inspect fishing vessels, port States should collect the following information and remit it to the flag State and, where appropriate, the relevant regional fisheries management organization:

58.1 the flag State of the vessel and identification details;

58.2 name, nationality, and qualifications of the master and the fishing master;

58.3 fishing gear;

58.4 catch on board, including origin, species, form, and quantity;

58.5 where appropriate, other information required by relevant regional fisheries management organizations or other international agreements; and

58.6 total landed and transshipped catch.

59. If, in the course of an inspection, it is found that there are reasonable grounds to suspect that the vessel has engaged in or supported IUU fishing in areas beyond the jurisdiction of the port State, the port State should, in addition to any other actions it may take consistent with international law, immediately report the matter to the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organization. The port State may take other action with the consent of, or upon the request of, the flag State.

60. In applying paragraphs 58 and 59, States should safeguard the confidentiality of information collected, in accordance with their national laws.

61. States should establish and publicize a national strategy and procedures for port State control of vessels involved in fishing and related activities, including training, technical support, qualification requirements and general operating guidelines for port State control officers. States should also consider capacity-building needs in the development and implementation of this strategy.

62. States should cooperate, as appropriate, bilaterally, multilaterally and within relevant regional fisheries management organizations, to develop compatible measures for port State control of fishing vessels. Such measures should deal with the information to be collected by port States, procedures for information collection, and measures for dealing with suspected infringements by the vessel of measures adopted under these national, regional or international systems.

63. States should consider developing within relevant regional fisheries management organizations port State measures building on the presumption that fishing vessels entitled to fly the flag of States not parties to a regional fisheries management organization and which have not agreed to cooperate with that regional fisheries management organization, which are identified as being engaged in fishing activities in the area of that particular organization, may be engaging in IUU fishing. Such port State measures may prohibit landings and transshipment of catch unless the identified vessel can establish that the catch was taken in a manner consistent with those conservation and management measures. The identification of the vessels by the regional fisheries management organization should be made through agreed procedures in a fair, transparent and non-discriminatory manner.

64. States should enhance cooperation, including by the flow of relevant information, among and between relevant regional fisheries management organizations and States on port State controls.

INTERNATIONALLY AGREED MARKET-RELATED MEASURES

65. The measures in paragraphs 66 to 76 are to be implemented in a manner which recognizes the right of States to trade in fish and fishery products harvested in a sustainable manner and should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organisation, and implemented in a fair, transparent and non-discriminatory manner.

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

67. States should ensure that measures on international trade in fish and fishery products are transparent, based on scientific evidence, where applicable, and are in accordance with internationally agreed rules.

68. States should cooperate, including through relevant global and regional fisheries management organizations, to adopt appropriate multilaterally agreed trade-related measures, consistent with the WTO, that may be necessary to prevent, deter and eliminate IUU fishing for specific fish stocks or species. Multilateral trade-related measures envisaged in regional fisheries management organizations may be used to support cooperative efforts to ensure that trade in specific fish and fish products does not in any way encourage IUU fishing or otherwise undermine the effectiveness of conservation and management measures which are consistent with the 1982 UN Convention.

69. Trade-related measures to reduce or eliminate trade in fish and fish products derived from IUU fishing could include the adoption of multilateral catch documentation and certification requirements, as well as other appropriate multilaterally-agreed measures such as import and export controls or prohibitions. Such measures should be adopted in a fair, transparent and non-

discriminatory manner. When such measures are adopted, States should support their consistent and effective implementation.

70. Stock or species-specific trade-related measures may be necessary to reduce or eliminate the economic incentive for vessels to engage in IUU fishing.

71. States should take steps to improve the transparency of their markets to allow the traceability of fish or fish products.

72. States, when requested by an interested State, should assist any State in deterring trade in fish and fish products illegally harvested in its jurisdiction. Assistance should be given in accordance with terms agreed by both States and fully respecting the jurisdiction of the State requesting assistance.

73. States should take measures to ensure that their importers, transshippers, buyers, consumers, equipment suppliers, bankers, insurers, other services suppliers and the public are aware of the detrimental effects of doing business with vessels identified as engaged in IUU fishing, whether by the State under whose jurisdiction the vessel is operating or by the relevant regional fisheries management organizations in accordance with its agreed procedures, and should consider measures to deter such business. Such measures could include, to the extent possible under national law, legislation that makes it a violation to conduct such business or to trade in fish or fish products derived from IUU fishing. All identifications of vessels engaged in IUU fishing should be made in a fair, transparent and non-discriminatory manner.

74. States should take measures to ensure that their fishers are aware of the detrimental effects of doing business with importers, transshippers, buyers, consumers, equipment suppliers, bankers, insurers and other services suppliers identified as doing business with vessels identified as engaged in IUU fishing, whether by the State under whose jurisdiction the vessel is operating or by the relevant regional fisheries management organization in accordance with its agreed procedures, and should consider measures to deter such business. Such measures could include, to the extent possible under national law, legislation that makes it a violation to conduct such business or to trade in fish or fish products derived from IUU fishing. All identifications of vessels engaged in IUU fishing should be made in a fair, transparent and non-discriminatory manner.

75. States should work towards using the Harmonized Commodity Description and Coding System for fish and fisheries products in order to help promote the implementation of the IPOA.

76. Certification and documentation requirements should be standardized to the extent feasible, and electronic schemes developed where possible, to ensure their effectiveness, reduce opportunities for fraud, and avoid unnecessary burdens on trade.

RESEARCH

77. States should encourage scientific research on methods of identifying fish species from samples of processed products. FAO should facilitate the establishment of a network of databases of genetic and other markers used to identify fish species from processed product, including the ability to identify the stock of origin where possible.

REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS

78. States should ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant regional fisheries management organization and by which they are bound. States should cooperate in the establishment of such organizations in regions where none currently exist.

79. As the cooperation of all relevant States is important for the success of measures taken by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing, States which are not members of a relevant regional fisheries management organization are not discharged from their obligation to cooperate, in accordance with their international obligations, with that regional fisheries management organization. To that end, States should give effect to their duty to cooperate by agreeing to apply the conservation and management measures established by that regional fisheries management organization, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

80. States, acting through relevant regional fisheries management organizations, should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter, and eliminate IUU fishing. Consideration should be given to including the following measures:

80.1 institutional strengthening, as appropriate, of relevant regional fisheries management organizations with a view to enhancing their capacity to prevent, deter and eliminate IUU fishing;

80.2 development of compliance measures in conformity with international law;

80.3 development and implementation of comprehensive arrangements for mandatory reporting;

80.4 establishment of and cooperation in the exchange of information on vessels engaged in or supporting IUU fishing;

80.5 development and maintenance of records of vessels fishing in the area of competence of a relevant regional fisheries management organization, including both those authorized to fish and those engaged in or supporting IUU fishing;

80.6 development of methods of compiling and using trade information to monitor IUU fishing;

80.7 development of MCS, including promoting for implementation by its members in their respective jurisdictions, unless otherwise provided for in an international agreement, real time catch and vessel monitoring systems, other new technologies, monitoring of landings, port control, and inspections and regulation of transshipment, as appropriate;

80.8 development within a regional fisheries management organization, where appropriate, of boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and inspection officers;

80.9 development of observer programmes;

80.10 where appropriate, market-related measures in accordance with the IPOA;

80.11 definition of circumstances in which vessels will be presumed to have engaged in or to have supported IUU fishing;

80.12 development of education and public awareness programmes;

80.13 development of action plans; and

80.14 where agreed by their members, examination of chartering arrangements, if there is concern that these may result in IUU fishing.

81. States, acting through relevant regional fisheries management organizations, should compile and make available on a timely basis, and at least on an annual basis, to other regional fisheries

management organizations and to FAO, information relevant to the prevention, deterrence and elimination of IUU fishing, including:

- 81.1 estimates of the extent, magnitude and character of IUU activities in the area of competence of the regional fisheries management organization;
- 81.2 details of measures taken to deter, prevent and eliminate IUU fishing;
- 81.3 records of vessels authorized to fish, as appropriate; and
- 81.4 records of vessels engaged in IUU fishing.

82. Objectives of institutional and policy strengthening in relevant regional fisheries management organizations in relation to IUU fishing should include enabling regional fisheries management organizations to:

- 82.1 determine policy objectives regarding IUU fishing, both for internal purposes and co-ordination with other regional fisheries management organizations;
- 82.2 strengthen institutional mechanisms as appropriate, including mandate, functions, finance, decision making, reporting or information requirements and enforcement schemes, for the optimum implementation of policies in relation to IUU fishing;
- 82.3 regularize coordination with institutional mechanisms of other regional fisheries management organizations as far as possible in relation to IUU fishing, in particular information, enforcement and trade aspects; and
- 82.4 ensure timely and effective implementation of policies and measures internally, and in cooperation with other regional fisheries management organizations and relevant regional and international organizations.

83. States, acting through relevant regional fisheries management organizations, should encourage non-contracting parties with a real interest in the fishery concerned to join those organizations and to participate fully in their work. Where this is not possible, the regional fisheries management organizations should encourage and facilitate the participation and cooperation of non-contracting parties, in accordance with applicable international agreements and international law, in the conservation and management of the relevant fisheries resources and in the implementation of measures adopted by the relevant organizations. Regional fisheries management organizations should address the issue of access to the resource in order to foster cooperation and enhance sustainability in the fishery, in accordance with international law. States, acting through relevant regional fisheries management organizations, should also assist, as necessary, non-contracting parties in the implementation of paragraphs 78 and 79 of the IPOA.

84. When a State fails to ensure that fishing vessels entitled to fly its flag, or, to the greatest extent possible, its nationals, do not engage in IUU fishing activities that affect the fish stocks covered by a relevant regional fisheries management organization, the member States, acting through the organization, should draw the problem to the attention of that State. If the problem is not rectified, members of the organization may agree to adopt appropriate measures, through agreed procedures, in accordance with international law.

V. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

85. States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, should cooperate to support training and capacity building and consider providing financial, technical and other assistance to developing countries, including in particular the least developed among them and small island developing States, so that they can more fully meet their commitments under the IPOA and obligations under international law, including their

duties as flag States and port States. Such assistance should be directed in particular to help such States in the development and implementation of national plans of action in accordance with paragraph 25.

86. States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, should cooperate to enable:

- 86.1 review and revision of national legislation and regional regulatory frameworks;
- 86.2 the improvement and harmonization of fisheries and related data collection;
- 86.3 the strengthening of regional institutions; and
- 86.4 the strengthening and enhancement of integrated MCS systems, including satellite monitoring systems.

VI. REPORTING

87. States and regional fisheries management organizations should report to FAO on progress with the elaboration and implementation of their plans to prevent, deter and eliminate IUU fishing as part of their biennial reporting to FAO on the Code of Conduct. These reports should be published by FAO in a timely manner.

VII. ROLE OF FAO

88. FAO will, as and to the extent directed by its Conference, collect all relevant information and data that might serve as a basis for further analysis aimed at identifying factors and causes contributing to IUU fishing such as, *inter alia*, a lack of input and output management controls, unsustainable fishery management methods and subsidies that contribute to IUU fishing.

89. FAO will, as and to the extent directed by its Conference, support development and implementation of national and regional plans to prevent, deter and eliminate IUU fishing through specific, in-country technical assistance projects with Regular Programme funds and through the use of extra-budgetary funds made available to the Organization for this purpose.

90. FAO should, in collaboration with other relevant international organizations, in particular IMO, further investigate the issue of IUU fishing.

91. FAO should convene an Expert Consultation on the implementation of paragraph 76 of the IPOA.

92. FAO should investigate the benefits of establishing and maintaining regional and global databases, including but not limited to, information as provided for in Article VI of the 1993 FAO Compliance Agreement.

93. The FAO Committee on Fisheries will, based on a detailed analysis by the Secretariat, biennially evaluate the progress towards the implementation of the IPOA.