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***Preliminary Draft***

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

***Developed by***

***The Expert Consultation on Illegal, Unreported and Unregulated Fishing  
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***(Tabled by USA)***



PRELIMINARY DRAFT

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

1. 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 fail to achieve management goals. This situation leads to the loss of both short- and long-term social and economic opportunities. 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.

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 co-ordinated efforts by States, FAO, 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.

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

3. The scope of the IUU fishing problem encompasses fishing and related activities, including:

- fishing in areas under national jurisdiction without the authorization of the coastal State;
- fishing which contravenes or undermines conservation and management;
- failure to effectively exercise the required jurisdiction or control over vessels and nationals;
- failure to fully and accurately meet fishery and fishing vessel data collection and reporting requirements.

4. The International Plan of Action (IPOA) is voluntary. It has been elaborated within the framework of the Code of Conduct as envisaged by Article 2 (d).

5. Articles 1.1, 1.2 and 3 of the Code of Conduct apply 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.

6. In this document:

- (1) the reference to States includes the European Community in matters within its competence;
- (2) the term "regional" includes sub-regional, as appropriate;
- (3) the term "regional fisheries management organization" includes a fisheries body or an arrangement, as appropriate;
- (4) the term "1982 UN Convention" refers to the United Nations Convention on the Law of the Sea of 10 December 1982;

- (5) 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
- (6) the term "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.

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

### **OBJECTIVE AND PRINCIPLES**

8. The objective of the IPOA is for all States and regional fisheries management organizations to commence implementation, as soon as possible but preferably within 2 years after the adoption of this IPOA, of comprehensive, effective and transparent actions to prevent, deter and eliminate IUU fishing.

9. The IPOA to prevent, deter and eliminate IUU fishing incorporates the following principles and strategies:

- 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 applicable 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, between States and regional and global organizations. The full participation of stakeholders in combating IUU fishing, including industry, communities, and non-governmental organizations, should be encouraged. Due consideration should be given to the special requirements of developing countries in accordance with Article 5 of the Code of Conduct.
- Phased implementation: Measures to prevent, deter and eliminate IUU fishing should be based on the earliest possible implementation of national, regional and global action. This should require: (a) within 2 years of adoption of the IPOA States and regional fisheries management organizations should develop and implement policies and actions to prevent, deter and eliminate IUU fishing, and (b) within 5 years of adoption of the IPOA States and regional fisheries management organizations should have completed the implementation of the key elements of their plans and put into effect the longer term elements of the IPOA.
- Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, *inter alia*, flag State, port State and market-related measures to prevent, deter and eliminate IUU fishing and related activities should be embraced and all States should be encouraged to take appropriate measures to ensure that their nationals do not support or engage in IUU fishing and related activities. States should be encouraged to take appropriate action to ensure their natural or legal persons do not support or engage in IUU fishing and related activities. The action plan should address all economic, social and environmental impacts of IUU fishing and related activities.
- 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.
- Transparency: The IPOA should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct. In doing so, States should give consideration to appropriate publicity of IUU fishing activities, consistent with applicable laws.
- Non-discrimination: The IPOA should be developed and applied without discrimination in form or in fact against any State or its fishing vessels.
- Non-cooperating States: All possible steps should be taken, consistent with international law, to prevent or heavily proscribe the activities of the vessels of non-cooperating States that fish in a manner contrary to relevant conservation and management obligations.



#### 4. KEY ACTIONS IN COMBATING IUU FISHING

10. The key actions for implementation through this IPOA include:

- Full and effective implementation of existing international instruments;
- Ratification, accession, acceptance or adoption of international instruments;
- Introduction and effective implementation of Port State measures;
- Introduction and effective implementation of WTO-consistent trade-related measures;
- Establishing or strengthening global and regional international databases and other information systems;
- Strengthening regional fisheries management organizations and improving their effectiveness;
- Improving the effectiveness of the measures adopted by regional fisheries management organizations;
- States should, as appropriate, develop and implement national plans of action to prevent, deter and eliminate IUU fishing;
- Flag States should ensure effective control over fishing vessels flying their flag, in particular by maintaining and further developing the ability to oversee flagging, chartering and fishing operations;
- Flag States should co-operate with each other, coastal States, port States, market States and countries within whose jurisdiction owners or operators reside, through information exchange and other means to ensure compliance;
- Flag States should ensure that actions to reduce fishing capacity do not contribute to IUU fishing;
- States should take action to prevent natural or legal persons subject to their jurisdiction from engaging in IUU fishing and related activities;
- Strengthening national and regional institutional capacity and infrastructure through international agencies and organizations; and
- The special requirements of developing countries should be considered in accordance with the 1982 UN Convention and Article 5 of the Code of Conduct.

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

##### 5.1 ALL STATE RESPONSIBILITIES

###### *International Instruments*

11. 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.

12. 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, the FAO Compliance Agreement and other recently concluded international fisheries instruments.

13. States should implement fully and effectively all relevant international fisheries instruments, including the Code of Conduct and its associated International Plans of Action.

###### *National Legislation*

###### Legislation

14. National legislation should address in an effective manner all aspects of IUU fishing and related activities, including through ensuring internal consistency and harmonisation.

15. Legislation should address, *inter alia*, evidentiary standards and admissibility, in particular relating to the use of electronic evidence and new technologies.

## **State Control Over Nationals**

16. States should take effective measures, such as the creation of offences, to ensure that natural or legal persons subject to their jurisdiction do not engage in fishing activities, wherever they occur, that contravene or undermine applicable conservation and management measures or provisions adopted at a national, regional or global level.

17. All States should co-operate to identify natural or legal persons who are the operators or beneficial owners of vessels engaged in IUU fishing. All States having jurisdiction over such persons should do their utmost to ensure no vessel owned or operated by those persons fishes in a manner which undermines or contravenes applicable conservation and management measures or provisions adopted at a national, regional or global level.

## **Stateless Vessels**

18. States should take measures, consistent with international law, enabling them to assume national jurisdiction in relation to stateless vessels on the high seas involved in IUU fishing or related activities.

## **Sanctions**

19. States should ensure that sanctions for IUU fishing and related activities are of sufficient severity to effectively deter IUU fishing and to deprive offenders of the benefits accruing from IUU fishing. This may include the adoption of a civil sanction regime based on an administrative penalty scheme. States should ensure the harmonious, consistent and transparent application of sanctions.

## **Monitoring, Control and Surveillance**

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

- requiring all fishing and related activities by natural or legal persons or vessels subject to their jurisdiction to be undertaken pursuant to effective State controls, including authorisations;
- maintaining records of all natural or legal persons or vessels authorised to undertake fishing and related activities subject to their jurisdiction;
- requiring, as appropriate, vessels involved in fishing activities to carry VMS conforming to national, regional or international standards;
- providing training and education to all persons involved in MCS operations;
- planning, funding and undertaking MCS operations in a manner that will maximise their ability to prevent, deter and eliminate IUU fishing;
- promoting industry awareness of the need for, and their cooperative participation in, MCS activities to eliminate IUU fishing and related activities;
- promoting awareness of MCS issues within national judicial systems;
- establishing and maintaining systems for the acquisition and storage of MCS data;
- ensuring effective national and regional boarding and inspection regimes by flag and inspecting States, including the rights and obligations of masters and of inspection officers.

## **National Plans Of Action**

21. States should, as appropriate, develop, implement and monitor national plans of action to further achieve the objectives of this IPOA and give full effect to its provisions. These plans should also include actions to implement initiatives adopted by 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, communities and non-governmental organizations.

22. States should endeavour to develop, adopt and make public their review of the plans within two years of the adoption of this IPOA. At least every four years, States should review the implementation of their national plans to prevent, deter and eliminate IUU fishing for the purpose of identifying cost-effective strategies to increase effectiveness.

23. States should ensure that national efforts to prevent, deter and eliminate IUU fishing are internally co-ordinated. In particular, national delegations to the IMO, the FAO and regional fisheries management organizations should co-ordinate their activities.

### **Cooperation Between States**

24. States should co-ordinate their activities and co-operate directly and through appropriate regional fisheries management organizations in preventing, deterring and eliminating IUU fishing and related activities. In particular, States should:

- (a) 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;
- (b) allow and enable their respective MCS practitioners or enforcement personnel to co-operate in the investigation of IUU fishing and related activities, and to this end States should collect and maintain data and information relating to such fishing and activities;
- (c) co-operate in effective acquisition, management and verification of all relevant data and information from fishing and related activities;
- (d) co-operate in transferring expertise and technology;
- (e) harmonize policies and measures, including as appropriate the severity of sanctions;
- (f) develop co-operative mechanisms that allow, *inter alia*, rapid response to IUU fishing and related activities;
- (g) co-operate in monitoring, control and surveillance; and
- (h) publicise widely details of IUU fishing and related activities and actions taken to eliminate it in a manner consistent with any applicable confidentiality requirements.

25. States whose nationals fish on the high seas in fisheries not regulated by a regional fisheries management organization, particularly new or exploratory fisheries, 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.

26. States should ensure that the technical capacity and resources which are needed to implement the plan are available, including through the establishment of special funds at the national, regional or global level.

## **5.2 FLAG STATE RESPONSIBILITIES**

### **Vessel Registration**

27. States should ensure that fishing vessels flying their flag do not engage in any activity that contravenes or undermines the effectiveness of conservation and management measures or provisions adopted at a national, regional or global level.

28. A flag State should ensure, before it registers a vessel, that it can exercise its responsibility to ensure vessels comply with relevant conservation and management measures or provisions adopted at a national, regional or global level. Before a flag State accepts a vessel for registration, it should contact the previous flag State of that vessel for the purpose of ascertaining and or verifying the reasons for reflagging, and establishing whether that vessel has a history of non-compliance with conservation and management measures or provisions adopted at a national, regional or global level. If the registration has been approved the new flag State should advise the previous flag State of that approval.

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

- (a) 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

- (b) having taken into account all relevant facts, the flag State determines that flagging the vessel would not result in undermining conservation and management measures or provisions adopted at a national, regional or global level.

30. Paragraphs 28 and 29 above should also apply *mutatis mutandis* to chartering arrangements.

31. In relation to a bareboat charter, flag States should consider any request for registration as a registration *de novo* and should require the vessel's previous registration to be cancelled or suspended for the duration of the charter. The new flag State should require, as a minimum, details of the legal owners, mortgages, liens and other encumbrances.

32. 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.

33. States should take all practicable steps, including denial to a vessel of an authorisation to fish and 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.

34. Although the functions of registration of a vessel and issuing of an authorisation 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.

35. A Flag State should consider making its decision to register a fishing vessel conditional upon its decision 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***

36. Each flag State's Record of Fishing Vessels should include:

- name of vessel and identifying call signs and registration numbers; the previous names if any and if known; previous flag States if any;
- name, address and nationality of the natural or legal person registering the vessel;
- name, street address, mailing address and nationality of the natural or legal persons— including the names, addresses and nationalities of any directors— responsible for managing the operations of the vessel;
- name, street address, mailing address and nationality of natural or legal persons— including the names, addresses and nationalities of any directors – with beneficial ownership of the vessel;
- history of non-compliance by that vessel with conservation and management measures or provisions adopted at a national, regional or global level; and
- vessel dimensions and 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.

### ***Authorisation To Fish***

37. Where required, vessels should carry on board a valid authorization to fish. Each State's authorization process may include, but need not be limited to:

- the vessel, and the natural or legal person authorised to fish;
- the areas, scope and duration of the authorization to fish;
- the species, allowable catch, management measures and fishing gear authorized;
- vessel monitoring systems, where required;

- catch reporting conditions, such as:
  - time series of catch and effort statistics by vessel;
  - 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);
  - discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
  - effort statistics appropriate to each fishing method; and
  - fishing location, date and time fished and other statistics on fishing operations as appropriate.
- reporting and other conditions for transshipping, where transshipping is permitted;
- observer coverage, where required;
- maintenance of fishing and related log books as required;
- navigational equipment to ensure compliance with boundaries and in relation to restricted areas;
- compliance with 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;
- marking of its fishing vessels in accordance with internationally recognised standards, such as the FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels. Vessels' fishing gear shall similarly be marked in accordance with internationally recognised standards; and
- where appropriate, compliance with other aspects of fisheries arrangements applicable to the flag State.

38. Flag States should ensure that their fishing, transport and support vessels do not operate in a manner that undermines or contravenes the conservation and management measures adopted at a national, regional or global level. To this end, flag States should ensure that none of their vessels re-supply fishing vessels engaged in such activities or tranship fish to or from these vessels.

39. Flag States should ensure that all of their fishing, transport and support vessels involved in transshipment at sea, report to the national fisheries administration:

- the time, date and location of all of their transshipments of fish at sea;
- the weight by species and harvesting area of the catch transhipped;
- the name, registration, flag and other information related to the identification of the vessels involved in the transshipment; and
- the port where the transhipped catch was landed.

Such reporting should be the responsibility of the agency with the authority for fishery management.

40. Flag States should consider entering into agreements or arrangements with other States for the mutual enforcement of applicable laws and conservation and management measures or provisions adopted at a national, regional or global level. States should be encouraged to co-operate in such enforcement endeavours which may be initiated by either a coastal, port or flag State.

### **Cooperation**

41. A flag State should make available to interested parties including other States, and regional and international organizations, information about vessels leaving its register or whose authorisation to fish has been cancelled and the reason therefore.

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

43. Flag States should make information from catch and transshipment reports available in a timely manner to relevant national, regional and international organizations.



### 5.3 PORT STATE MEASURES

44. When used in this section, port access means access to ports and other facilities for the purpose of refuelling, re-supplying, transhipping and landing.
45. Prior to allowing the vessel port access, States should require fishing vessels seeking to enter their ports to declare that the vessel has not engaged in IUU fishing, and that the vessel is willing to be inspected in this regard by port State authorities.
46. A port State should allow a vessel port access only if the vessel operator satisfies the port State that the vessel has conducted the fishing and related activities it has undertaken in a manner consistent with applicable national and international law, including conservation and management measures and provisions adopted at the national, regional and global level (that is to say, it has not engaged in IUU fishing and related activities).
47. States should designate ports at which foreign flagged vessels may be permitted to enter and should ensure that these ports have the capacity to conduct inspections as follows:
- (a) in the course of an inspection States should collect the following information and remit it to the flag State and, where appropriate, the relevant regional fisheries management organization:
    - i) the flag State of the vessel and identification details;
    - ii) name, nationality, and qualifications of the master and the fishing master;
    - iii) fishing gear;
    - iv) catch on board, including origin, species, form, and quantity; and
    - v) where appropriate, other information required by regional fisheries management organizations or other international agreements;
  - (b) if in the course of an inspection, it is found that there are reasonable grounds to suspect that the vessel has engaged in IUU fishing in areas beyond the jurisdiction of the port State, the port State should, in addition to such actions it may take consistent with international law, immediately report the matter to the flag State of the vessel and, where appropriate, the relevant regional fisheries management organization, as well as other action with the consent of, or upon the request of, the flag State; and
  - (c) States should safeguard the confidentiality of information collected, in accordance with their national laws.
48. States should establish 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.
49. States should cooperate bilaterally, multilaterally and within regional fisheries management organizations, to develop or harmonise 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.
50. States should develop within regional fisheries management organizations port State measures building on the presumption that fishing vessels flying the flag of non-cooperating States sighted in the area of that particular organization are undermining the effectiveness of the organization's conservation, management and enforcement measures and prohibit landings and transhipment of catch unless the vessel can establish that the catch was taken in a manner consistent with those measures.
51. States should enhance cooperation, including by the flow of relevant information, among and between regional fisheries management organizations and States on port State controls.
52. FAO, in concert with States and other international agencies of relevant competence such as the IMO, should convene a conference addressing the establishment of bilateral and multilateral instruments (such as Memoranda of Understanding on port State controls) to deter IUU fishing. Items that should, *inter alia*, be addressed by this conference include:

- the nature of data to be collected in the course of port State inspections and the purposes for which it may be used;
- measures to govern nationals;
- measures for and conditions governing the detention by port States of fishing vessels suspected of violating conservation and management measures of regional fisheries management organizations or national fishing laws or regulations;
- the extent to which existing agreements governing merchant and transport vessels may have application to fishing vessels;
- the feasibility of and provisions for reciprocal enforcement and inspection arrangements; and
- measures regarding monitoring and control of landings and transshipments.

53. States should elaborate a binding international agreement on port State controls to deter IUU fishing.

#### **5.4 MARKET RELATED MEASURES**

54. States should take all steps necessary, consistent with international law, to prevent fish caught by vessels engaged in IUU fishing being imported into their territories or being traded by their natural or legal persons.

55. States should co-operate, including through global and regional fisheries management organizations to adopt appropriate trade-related measures that may be necessary to prevent, deter and eliminate IUU fishing in specific species. Trade-related measures should be consistent with the principles, rights and obligations established in the WTO Agreement and implemented in a fair, transparent and non-discriminatory manner. Trade-related measures may be used to support co-operative efforts to ensure that trade in specific fish and fish products does not undermine the effectiveness of conservation and management measures which are consistent with the 1982 UN Convention.

56. Trade-related measures to reduce or eliminate trade in fish and fish products derived from IUU fishing could include the adoption of catch documentation and certification requirements, as well as other appropriate measures such as import and export prohibitions.

57. In particular, species-specific trade-related measures may be necessary to reduce or eliminate the economic incentive for vessels to engage in IUU fishing.

58. States should support the implementation of trade-related measures adopted by regional fisheries management organizations, including certification and documentation requirements, to reduce or eliminate commerce in specific fish species and fish products derived from IUU fishing and related activities.

59. States should improve the transparency of their markets to allow the identification of natural or legal persons, involved in, or benefiting from, trading or processing of fish and fish products derived from IUU fishing and related activities.

60. States should assist any State in deterring trade in fish and fish products illegally harvested in its jurisdiction.

61. States should consider urging their importers, transshippers, consumers, equipment suppliers, bankers, insurers and other services suppliers to voluntarily forego doing business with vessels identified as engaged in IUU fishing and related activities by the relevant regional fisheries management organizations.

62. States should also consider urging their fishers to voluntarily forego doing business with importers, transshippers, consumers, equipment suppliers, bankers, insurers and other services suppliers identified as doing business with vessels identified as engaged in IUU fishing and related activities by the relevant regional fisheries management organizations.

63. States should adopt measures, such as legislation, which make it a violation for any person to trade in any fish or fish product derived from fishing and related activities undertaken in a manner inconsistent with applicable national or international law, measures adopted by relevant regional fisheries management

organizations or other international arrangements. Such violations should be subject to sanctions of sufficient severity to deter such trade and deprive offenders of the benefits accruing from such trade.

64. 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.

65. States should adopt Harmonized System customs codes for fish and fisheries products whose trade may undermine the objectives of a regional fisheries management organization.

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

## 5.5 REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS

67. This Part is applicable to all regional fisheries management organizations, as well as regional organizations dealing with fisheries matters within their areas of competence.

68. Regional fisheries management organizations play a unique and essential role in preventing, deterring and eliminating IUU fishing and related activities. States should co-operate in the establishment of such organizations in regions where none currently exists.

69. The cooperation of all States is important for the success of relevant measures taken by regional fisheries management organizations in regard to the prevention, deterrence and elimination of IUU fishing and related activities, whether they are members or non members. States should ensure compliance and enforcement with the measures and policies having a bearing on IUU fishing adopted by any relevant regional fisheries management organization.

70. Members of regional fisheries management organizations should take action to strengthen such bodies as appropriate, and develop innovative ways to deter, prevent and eliminate IUU fishing and related activities. Such regional fisheries management organizations should take into account the rapidly growing body of measures and actions already taken by regional fisheries management organizations to prevent, deter and eliminate IUU fishing and related activities, and should contribute to harmonized approaches. Consideration should be given to including the following measures:

- (a) institutional strengthening, as appropriate, of regional fisheries management organizations with a view to enhancing their capacity to prevent, deter and eliminate IUU fishing and related activities;
- (b) development of incentives and disincentives to induce compliance with conservation and management measures;
- (c) development and implementation of comprehensive arrangements for mandatory reporting;
- (d) establishment of and cooperation in the exchange of information on vessels engaged in IUU fishing and related activities;
- (e) development of records of vessels fishing in the area of competence of a regional fisheries management organization, including both those authorised to fish and those engaged in IUU fishing and related activities;
- (f) development of methods of compiling and using trade information to monitor IUU fishing and related activities;
- (g) development of MCS, including real time catch and vessel monitoring systems, other new technologies, monitoring landings, port control and inspections and regulation of transshipment;
- (h) development of observer programmes;

- (i) development of catch documentation schemes;
- (j) development of trade measures consistent with international law;
- (k) definition of circumstances in which vessels will be presumed to have engaged in IUU fishing and related activities;
- (l) development of education and public awareness programmes;
- (m) development of action plans; and
- (n) examination and monitoring, without prejudice to sovereign rights, of chartering arrangements in order to determine whether they are undermining conservation and management measures.

71. Regional fisheries management organizations should encourage and facilitate non-contracting parties, in particular those with significant fishing capacity or undertaking significant fishing activities, to join regional fisheries management organizations and to participate fully in their work. Where this is not possible, regional fisheries management organizations should encourage and facilitate the participation and cooperation of non-contracting parties, in accordance with relevant international agreements and international law, in the conservation and management of the relevant fisheries resources by giving effect to conservation and management measures adopted by such regional fisheries management organizations. Regional fisheries management organizations should address the issue of access to the resource in a timely, realistic and equitable manner in order to foster cooperation and enhance sustainability in the fishery.

72. Regional fisheries management organizations should proactively develop co-operative mechanisms to prevent, deter and eliminate IUU fishing and related activities. Regional fisheries management organizations are strongly encouraged to regularise and prioritise such co-operation and co-ordination, particularly in the following areas:

- (a) improving the institutional capacity for establishment and maintenance of fishing vessel records and related information, participation in existing regional and international information systems, and timely and effective collection and dissemination of information in respect of members and non-members;
- (b) the policies and measures to provide incentives for comprehensive membership and compliance with management measures;
- (c) co-ordination and standardisation of schemes, reports and measures in relation to IUU fishing and related activities;
- (d) developing and implementing policies and measures relating to inspection and enforcement; and
- (e) implementation and periodic review of programmes to monitor landings, chartering arrangements, port State controls and inspection, transshipments and trade.

73. Regional fisheries management organizations should compile and make available on a timely, 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 and related activities, including:

- estimates of the extent, magnitude and character of IUU activities in their area of competence;
- details of measures taken to deter, prevent and eliminate IUU fishing and related activities;
- records of vessels authorised to fish, as appropriate; and
- records of vessels engaged in IUU fishing and related activities.

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

- (a) determine policy objectives regarding IUU fishing and related activities, both for internal purposes and co-ordination with other regional fisheries management organizations;

- (b) strengthen institutional mechanisms as appropriate, including mandate, functions, finance, decision making, reporting or information requirements and enforcement, for the optimum implementation of policies in relation to IUU fishing and related activities;
- (c) regularise co-ordination with institutional mechanisms of other regional fisheries management organizations as far as possible in relation to IUU fishing and related activities, in particular information, enforcement and trade aspects; and
- (d) 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.

75. When a State fails to ensure that a fishing vessel flying its flag, or its nationals, comply with a regional fisheries management organization's conservation and management measures, that organization should draw the problem to the attention of such State. If non-compliance is not rectified, Members of the organization should agree to adopt appropriate measures, such as prohibition of port access, prohibition on transshipment, non-discriminatory trade measures consistent with international law, including banning the import of the fish caught by vessels registered in the State, or of fish which any natural or legal person who is a beneficial owner or operator of such vessel or who has been involved in IUU fishing seeks to import.

## **6. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES**

76. States should co-operate to support training and institutional strengthening and consider providing financial, technical and other assistance to developing countries so that they can more fully meet their commitments under this IPOA and obligations under international law, including their duties as flag States. To this end States should co-operate to establish a trust fund to assist developing countries. The fund so created should be targeted to build awareness among stakeholders; to enable the review and revision of national legislation and regional regulatory frameworks; to enable the improvement and harmonisation of fisheries and related data collection; and to enable the strengthening and enhancement of integrated MCS systems.

77. States should recognise that bilateral or other arrangements may be helpful as a means of providing technical assistance and infrastructure to improve standards of their registers. The use of technical cooperation programs is to be encouraged.

## **7. REPORTING**

78. 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 and related activities as part of their biennial reporting to FAO on the Code of Conduct.

## **8. ROLE OF FAO**

79. 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 and related activities.

80. 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 and related activities 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.

81. FAO should conduct a study of existing obligations under part VII of the 1982 UN Convention in relation to IUU Fishing and how States are implementing these obligations. To assist FAO in this task, States should provide information to FAO on the manner in which they are implementing obligations under part VII of the 1982 UN Convention. States should review the FAO study and consider the elaboration of obligations under Part VII of the 1982 UN Convention, in particular, the elaboration of obligations relating to high seas stocks other than straddling fish stocks or highly-migratory fish stocks.



82. FAO should include on the agenda of the FAO/IMO *ad hoc* Joint Working Group on IUU Fishing and Related Matters the further investigation of the issue of the impact of chartering and bareboat chartering arrangements on IUU fishing and related activities and recommend measures to manage it.

83. FAO should develop a simple, standardised format for the collection and collation of transshipment information supplied by flag States.

84. 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 FAO Compliance Agreement.

85. FAO will, through COFI, report biennially on the state of progress in the implementation of the IPOA on the basis of the information provided by all States and regional fisheries management organizations.

