

Report of the

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

Accra, Ghana, 28 November–2 December 2005



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PREPARATION OF THIS DOCUMENT

This is the final report of the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion, held at the Erata Hotel, Accra, Ghana, from 28 November to 2 December 2005.

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ABSTRACT

This document contains the report of, and some of the papers presented at, the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion which was held at Accra, Ghana, from 28 November to 2 December 2005. The purpose of the Workshop was to assist countries in the West African Subregion to develop capacity to elaborate National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOAs–IUU). The Workshop addressed issues relating to the 1995 FAO Code of Conduct for Responsible Fisheries, the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) and FAO Fisheries Technical Guidelines No. 9 that have been developed to support the implementation of the IPOA–IUU; concepts of planning and the elaboration of action plans; decision-making about IUU fishing and skills enhancement through the identification of key issues relating to the elaboration of NPOAs–IUU, the primary vehicle by which the IPOA–IUU will be implemented by countries. Working groups were formed to encourage maximum participation in the Workshop. A review of the major IUU fishing problems in the region and their possible solutions were discussed. Funding for the Workshop was provided by the FAO Regular Programme with support for the participation of Ms Judith Swan from the FishCode Programme through component project GCP/INT/849/USA, “Support for Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing”.

Distribution:

Participants

FAO Fisheries Officers, Regional and Subregional Offices

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OPENING OF THE WORKSHOP

1. The FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion was held at the Erata Hotel, Accra, Ghana, from 28 November to 2 December 2005.
2. The Workshop was attended by 39 participants from FAO Members. A list of participants is attached in Appendix B.
3. The Workshop was called to order by Mr Alhaji Jallow, Workshop Coordinator and Senior Fishery Officer, Accra, Ghana. He introduced Mr Edouard Kouka Tapsoba, Deputy Regional Representative and FAO Representative in Ghana. He reminded the Workshop of the serious impacts of illegal, unreported and unregulated (IUU) fishing on resource management and food security. He encouraged all countries to take action to implement the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU), as a means of combating IUU fishing in the West African Subregion. His statement is in Appendix D.
4. The Workshop Coordinator then invited the Honourable Minister for Fisheries, Ms Gladys Asmah, Ghana, to address the meeting. The Minister pointed out that Ghana had legislation, policies and measures in place to combat IUU fishing, including an effective monitoring, control and surveillance (MCS) programme. Ghana is also taking steps to prevent vessels flying the Ghanaian flag and Ghanaian nationals from engaging in IUU fishing on the high seas, in accordance with international fisheries law. The Minister added that she was confident that all participants would have the capacity to elaborate national plans of action to combat IUU fishing (NPOAs–IUU) after they returned home to their countries. Her statement is in Appendix E.

ADMINISTRATIVE ARRANGEMENTS AND TECHNICAL ISSUES FOR THE WORKSHOP

5. The Agenda for the Workshop is attached in Appendix A and the list of documents distributed at the Workshop is attached in Appendix C.
6. Mr Isaac Bille, Director of Marine Artisanal Fisheries Development (MIDEPECAM), Cameroon, and Mr Djibril Balde, Technical Adviser to the Minister, Guinea-Bissau, were appointed as Workshop Representatives. It was noted that the role of the Representatives was to provide some general observations about the Workshop and to propose possible follow-up actions. Participants were encouraged to provide observations to the Representatives so that these comments could be included in the plenary statement that would be made by them in the closing session of the Workshop.
7. Mr Doulman, Technical Secretary of the Workshop and Senior Fishery Liaison Officer, FAO, provided an overview of the timetable for the Workshop and the technical issues to be addressed. He stated that the objective of the Workshop was to develop and strengthen national capacity so that countries would be better placed to elaborate their national plans of action to prevent and eliminate illegal, unreported and unregulated fishing (NPOAs–IUU), in accordance with the provision of the IPOA–IUU. Mr Doulman underscored the importance of the NPOAs–IUU as primary tools for countries to take steps to implement the IPOA–IUU. He noted that countries should have elaborated their NPOAs–IUU by June 2004. However, based on information available to FAO, fewer than 20 countries had elaborated their national plans.
8. With respect to the outcome of the Workshop, Mr Doulman stated that it should lead to an increased awareness about the causes of IUU fishing and its impact on the sustainable management of resources. He added that the Workshop should also facilitate a greater sharing of experiences about

IUU fishing and create a greater appreciation of the need for enhanced regional cooperation and harmonization of measures to combat IUU fishing in the West African Subregion.

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

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

- background;
- the process of elaboration;
- the purpose and objectives;
- structure; and
- implementation including, as reported to the Twenty-Sixth Session of the Committee on Fisheries (COFI), the constraints being encountered by countries and the solutions proposed to overcome these constraints.

10. Mr Doulman pointed out that the effective implementation of the Code of Conduct provided a challenge for countries in their efforts to devise appropriate fisheries policies and measures that would promote responsible behaviour and long-term sustainability. The presentation traced the origins of the Code of Conduct and the development of the concept of “responsible fisheries” As a soft law instrument it was noted that the Code of Conduct had six substantive articles dealing with general principles, fisheries management, fishing operations, aquaculture development, the integration of fisheries into coastal area management, post-harvest practices and trade and fishery research. Mr Doulman stated that the Code of Conduct was closely related to a number of other international fisheries instruments which all sought to promote long-term sustainability in fisheries. The presentation reviewed measures by FAO to support implementation of the Code of Conduct as well as those initiatives at the regional and national levels. The paper on which the presentation was based is attached in Appendix F.

11. In discussion following the presentation it was pointed out that given the state of world fisheries, the Code of Conduct should have been concluded as a binding instrument. It was noted that although it is not binding, States were encouraged to give binding effect to the Code through national legislation. Indeed, it was further noted that the Code was drafted in such a way that States could readily incorporate its paragraphs into national policy and legislation with a minimum of drafting changes. Some participants underscored the need for stronger political will to ensure that the Code of Conduct was more fully and expeditiously implemented.

12. The role of civil society in promoting the implementation of the Code of Conduct was queried. While noting that national policies varied between countries with respect to the involvement of civil society in fisheries, it was agreed that non-governmental organizations (NGOs) could play an important role in many countries in supporting the implementation of responsible fisheries, especially in small-scale fisheries. However, it was pointed out that NGOs should respect national fisheries policies and collaborate with national fishery administration in the course of their work.

13. The importance of FAO’s role in facilitating the implementation of the Code was underscored. Recalling the constraints impacting on the implementation of the Code of Conduct discussed at the 2005 Session of COFI, the Workshop agreed that capacity and financial problems experienced by developing countries should not be underestimated. As a result, FAO was encouraged to continue its efforts to promote the implementation of the Code and the IPOA–IUU.

14. The issue concerning capacity reduction as a means of decreasing the incidence of IUU fishing was raised in the Workshop. It was noted that in some countries vessels buy-back schemes and related restructuring arrangements had been proposed as a means of reducing fishing effort and IUU

fishing. Participants from Morocco informed the Workshop that a policy had been put in place in their country to reduce artisanal fishing vessels through a buy-back programme, financed by the fishers themselves. It was advised that some 3 500 vessels had been withdrawn from the fishery through this programme resulting in a 50 percent reduction in the number of canoes in the fishery.

2001 INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE IUU FISHING: BACKGROUND AND PROGRESS TOWARDS IMPLEMENTATION

15. Mr Doulman made a presentation concerning the IPOA–IUU. It focused principally on:

- international action to combat IUU fishing;
- implementation of the IPOA–IUU; and
- capacity building and institutional strengthening to combat IUU fishing.

The paper also included, as attachments, the FAO Conference resolution 6/2003 relating to IUU fishing, the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing and the major recommendations of the 2004 FAO Technical Consultation Review Progress and Promote the Full Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity. The paper upon which the presentation was based is in Appendix G.

16. The presentation noted that IUU fishing had been identified by the international community to be a major impediment to the achievement of long-term sustainable fisheries. It was further noted that IUU fishing occurred in all capture fisheries, irrespective of their locations, and that such fishing undermined national and regional efforts to promote responsible fisheries. Mr Doulman pointed out that FAO had played a pivotal role in galvanizing efforts to combat IUU fishing in accordance with a large number of international calls for such fishing to be eliminated. He added that FAO was aware that many developing countries, principally for capacity reasons, were particularly hard pressed to implement measures to effectively address IUU fishing.

17. Following the presentation it was pointed out that the spirit of the IPOA–IUU was consistent with a number of international agreements including the 1992 United Nations Convention on the Law of the Sea (1992 UN Convention). In the West African Subregion, IUU fishing was spreading like a cancer and there was sometimes a reluctance by countries to take action against vessels involved in IUU fishing and their flag States because of possible diplomatic repercussions. However, the Workshop noted that States should strive to pursue policies of responsible fisheries even in the face of such repercussions. It was further noted that sovereign States should not bend to pressure from more powerful fishing States, especially when IUU fishing activities were involved. The need to limit or prevent political interference when measures against IUU fishing vessels was being contemplated or taken was stressed.

18. The importance of coordinating regional action against IUU fishing was underscored. Regional cooperation and collaboration was one means of eliminating weak links as countries sought to put in place measures to combat IUU fishing. The Workshop saw the need for all countries in the West African Subregion to address IUU fishing “front on” if success was to be achieved. There was no room for complacency and it was stressed that the use of flags of convenience, a major source of IUU fishing, should be eradicated.

PLANNING FOR SUCCESS: WHAT IS AN ACTION PLAN?

19. Mr Peter van der Heijden, FAO consultant, made a presentation concerning the role of planning. It is attached as Appendix H. In his introduction, he noted the various reasons for making a plan. Some of the reasons were:

- it was required by the source of the funds;
- to make activities more transparent;
- to avoid wasting time and money when things were not done in the proper sequence, or when things were undertaken that do not contribute to the goals that have to be reached;
- to make sure that activities could continue when certain people left;
- to realize up-front what alternative actions could be taken when circumstances changed; and
- to make sure that a certain goal was reached in time.

20. Mr van der Heijden pointed out that when a more complex activity involving several tasks had to be undertaken by several people in a proper sequence, a plan was necessary. Planning meant breaking up a complex activity or task into smaller parts so that each part could be better managed and objectives could be more easily achieved.

21. In its simplest form an action plan was a four column table. In the first column the activities to be undertaken were listed. Who would undertake the activities was listed in the second column, when they would be undertaken was indicated in the third column, and the resources needed to undertake each activity were listed in the fourth column. The detailed listing of the actions to be undertaken should preferably involve consultation with the persons and agencies involved in the activity. This would enhance ownership of the plan, and may improve their long-term involvement in the implementation process. When very busy persons, agencies or sections had to become involved there was a need for diplomacy and sensitivity to avoid resistance against over-load of tasks and jobs. The list of actions in a good plan was determined by the actual situation in the country or region. Importance, urgency and practicality determined whether an activity would have high or lower priority. The activities to be mentioned in a plan should not be more ambitious than what could be achieved by the available and expected resources.

22. A plan should also state how progress in its execution would be monitored. For monitoring, indicators and milestones could be used. Finally, a good plan should include some provisions as to how often or under what conditions it should be revised. Revision would be needed after some time because conditions on the ground were dynamic and with the passing of time some issues may become more urgent while others may decrease in importance.

23. In summary, a plan of action should have:

- a description of the local situation with regard of the issue or subject concerned;
- the list of activities to be undertaken;
- who was going to undertake which activity;
- when it was going to be undertaken;
- the resources needed to undertake each activity;
- how progress was going to be measured (indicators and milestones);
- how often and under what circumstances revision of the plan would take place; and
- a person assigned responsibilities to ensure implementational follow-up.

PRESENTATION AND DISCUSSION OF THE IPOA–IUU

24. Mr Doulman presented the IPOA–IUU. He commenced the presentation by focusing on the definitions of illegal, unreported and unregulated fishing noting that these types of fishing could occur at both the national and regional levels in any capture fishery. The objectives and principles of the IPOA–IUU were then addressed. Mr Doulman added that the principles and strategies in the IPOA–IUU were common to some of the other IPOAs that had been elaborated within the framework of the Code of Conduct.

25. With respect to the implementation of the IPOA–IUU, Mr Doulman pointed out that responsibilities fell upon all States, flag States, coastal States and port States. The IPOA encouraged

all States to accept international instruments, review and revise national legislation, develop NPOAs–IUU, promote cooperation between States, publicize IUU fishing and actions taken to eliminate it and make available adequate technical capacity and resources to implement the IPOA–IUU. Flag States, on the other hand, should ensure that they had a system of fishing vessel registration, maintained a record of fishing vessels and granted authorization to fish. Coastal States should adopt measures, consistent with international law, to combat IUU fishing within the EEZ. Some of the measures that they should adopt included effective MCS systems and the regulation of access to their EEZs. Port State measures, partly designed to assist flag States meet their obligations under international law, were intended in a somewhat novel way to prevent IUU fishing.

26. The section of the IPOA–IUU relating to internationally agreed market-related measures sought to prevent fish harvested by IUU fishers entering world fish trade. Mr Doulman pointed out that IUU fishers would be deprived of the benefits of their illegal activities and hopefully this would lead to a reduction in IUU fishing. However, he stressed that this section of the IPOA–IUU should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) and implemented in a fair, transparent and non discriminatory manner.

27. Research was the subject of the next section of the IPOA–IUU followed by the role of regional fisheries management organizations (RFMOs) in combating IUU fishing. Mr Doulman explained that these organizations had a fundamental and critical role to play in combating IUU fishing, often as the first line of defence. The IPOA–IUU provided guidance to RFMOs on the types of measures that might be adopted to prevent, deter and eliminate IUU fishing.

28. The special requirements of developing countries were considered in part V of the IPOA–IUU. It highlights a number of ways in which developing countries might be assisted to enhance their capacities to deal more effectively with IUU fishing and to meet their obligations under international law. Reporting on progress with the elaboration and implementation of NPOAs–IUU was the subject of the next section of the IPOA–IUU and the role of FAO was highlighted in part VIII. Importantly, this section noted that the FAO Committee on Fisheries (COFI) should evaluate, on a biennial basis, progress achieved with the implementation of the IPOA–IUU. Mr Doulman explained that this information would be provided within the broader reporting on the implementation of the Code of Conduct.

29. Following the presentation of the IPOA–IUU, there was extensive discussion on various aspects of it. The Workshop was informed by some participants that there was a long history of IUU fishing in the West African Subregion and that all countries should cooperate to ensure that its adverse impacts were reduced and that IUU fishing activities were curtailed. It was noted for example that many rogue vessels operated in the region, some of which had no nationality. It was impossible to obtain information about these vessels because they were not registered on regional registers. However, the Workshop was advised that some countries were maintaining national vessel list and that subregional registers were also being established as a means of exchanging information to combat IUU fishing. One participant informed the Workshop that in addition to a national databank of vessels, his country also maintained a list of vessel captains because it was the captains and not the vessels that were responsible for IUU fishing.

30. The Workshop considered the situation of how to refuse an authorization to fish for a vessel that had engaged repeatedly in IUU fishing. While noting that there would need to be legislative backing for the withdrawal of an authorization to fish, the Workshop was advised that Article 21(11) of the 1995 UN Fish Stocks Agreement provided guidance on activities that constituted serious fishing violations and which were relevant to the IPOA–IUU.

31. The issue relating to the refusal by a State to register a fishing vessel was discussed. Notwithstanding paragraph 36 of the IPOA–IUU, the Workshop was of the opinion that flag States should consider this matter very seriously. Some participants explained that in their countries more

than one ministry or authority was involved in the registration of fishing vessels and the granting of authorizations to fish. The need to ensure close cooperation at the national level when registering a fishing vessel and granting it an authorization to fish was stressed.

32. One participant advised the Workshop, based on his country's experience, that in order to combat IUU fishing in an effective manner, four key steps needed to be followed. In the first instance, it was imperative to review and revise national legislation to ensure that there was a firm legislative foundation for which to take action against IUU fishing and IUU fishers. It was also important to ensure that there were adequate administrative support and procedures in place. Thirdly, there should be appropriate human resource development to equip personnel with the skills required to undertake the necessary work associated with IUU fishing. Finally the entire programme against IUU fishing should be underpinned by reasonable financial resources.

33. FAO's role in promoting the implementation of the IPOA-IUU and the elaboration of NPOAs-IUU was considered. While noting that FAO was a technical and not a financial organization, within available resources, FAO technical assistance could be provided to countries in the West African Subregion to support the preparation of NPOAs-IUU. However, it was suggested that countries should also consider other avenues for assistance such as regional financial institutions.

CONSIDERATION OF THE TECHNICAL GUIDELINES ON IUU FISHING IN THE CONTEXT OF REGIONAL IUU ISSUES

34. Ms Judith Swan, Senior Programme and Policy Officer, FAO, made a presentation on FAO Technical Guidelines No. 9 concerning the implementation of the IPOA-IUU. She referred to the purpose and scope of the Guidelines, noting that they had been produced to support the implementation of the IPOA-IUU by national governments and by international organizations, especially at regional and sub-regional levels. The Guidelines may also be of use to NGOs and other stakeholders including industry, and academic and scientific institutions. In general, the Guidelines:

- review the measures in the IPOA-IUU;
- advise how best to put them into effect;
- advise on the content of an NPOA-IUU; and
- contain suggestions for reporting to FAO on the implementation of the IPOA-IUU.

35. The framework of the Guidelines, consistent with that of the IPOA-IUU, provided the basis for Ms Swan's presentation. Emphasis was given to practical challenges and the importance of selecting the appropriate tools from the IPOA-IUU "toolbox", particularly where harmonization of actions and measures in the West African Subregion would contribute to effective implementation of the IPOA-IUU.

36. Many issues were raised in discussion. A significant concern was the implementation of appropriate MCS tools, particularly given the widespread nature of IUU fishing in all areas and types of fisheries in the subregion. A need for advice was expressed in relation to tools for setting appropriate penalties, installation of MCS, alternatives to vessel monitoring systems (VMS) and information exchange. In this regard, Ms Swan emphasized the importance of prioritization, strategies and assistance for capacity building, options for information exchange and some potential components of penalties that could be included in the law for deterrence and punitive purposes, especially for serious IUU fishing and related offences.

37. Appropriate deterrents and sanctions relating to the economic motivation for fishing on the high seas were also discussed, and the range of controls were pointed out, particularly trade and economic sanctions to address the economic motivation of IUU fishing. Ms Swan explained the role of the International Tribunal on the Law of the Sea. In addition, participants emphasized the need to incorporate international instruments into national laws and the harmonization of laws and practices

between neighboring countries in the region, especially in the areas of license denial to IUU fishing vessels and common vessel registration systems.

38. Mr Dame Mboup, Director of Fisheries Protection and Surveillance, Senegal, made a presentation concerning the role of MCS in the Sub-Regional Fisheries Commission (SRFC). He stated that the Commission has seven members (Mauritania, Senegal, Cape Verde, The Gambia, Guinea-Bissau, Guinea Conakry and Sierra Leone) and two observers (Mali and Morocco). The Commission was founded in 1985 and its members share common fish stocks.

39. IUU fishing in the subregion is common by artisanal and industrial fishers. Common types of IUU fishing include operating without an authorization to fish, incursion into prohibited areas, the use of destructive fishing methods and the use of banned gear and mesh sizes. The overall impact of these activities has led to dwindling resources, strong competition among vessels on the fishing grounds, conflict between industrial and artisanal fishers and the disappearance of some species.

40. SRFC has a successful regional MCS programme, with its headquarters, the Surveillance Operations and Coordination Unit (SOCU), in Banjul, The Gambia. SRFC members are involved in joint MCS operations, including aerial surveillance supported by marine operations. Although the initiative has been supported for four years by Luxembourg Development and will be supported by the European Community (EC) for a further four years starting in 2006, Commission members also contributed assets to support the joint operations. Importantly, SRFC has also promoted the development of national vessel registers and a subregional register of fishing vessel is being developed. These registers have provided a good basis for the exchange of information between members. SRFC is moving to implement VMS among its members as a means of complementing conventional MCS measures (the use of patrol boat, coastal radar and surveillance aircraft) and is seeking to harmonize national legislation as a means of promoting enhanced MCS cooperation.

41. IUU fishing has been particularly problematic in the SRFC area and Commission members are attempting to put in place effective measures against IUU fishing. Mr Mboup stressed the need for strong political will on the part of members to ensure that measures against IUU fishing could be effective.

42. The presentation prompted considerable discussion. It was noted that countries should consider sharing MCS assets as a means of promoting more effective cooperation at the regional level. For MCS programmes the exchange of information between countries was essential. It was explained that participatory approaches to MCS had merit and fishers could be encouraged to contribute to MCS efforts by reporting incidences of IUU fishing.

43. The Workshop was advised that some other countries in the West African Subregion such as Ivory Coast were at an advanced stage with the implementation of compulsory VMS. It was pointed out that in order to implement VMS it was necessary, as a first step, to ensure that there was the required legislative backing. Mr Mboup advised that SRFC was prepared to share information from its vessel register with non members of the Commission in a spirit of subregional cooperation.

44. In responding to a question about how spawning grounds could be protected from IUU fishers, Mr Mboup explained that one means of protecting them would be to create marine protected areas (MPAs) with a fishing prohibition in them.

NATIONAL PLAN OF ACTION CASE STUDY: A CONTINENTAL STATE

45. Ms Swan presented a case study of Galactia, a fictitious coastal State with a fisheries profile based on that of a country in the West Africa Subregion. It is in Appendix I. The case study consisted of a fisheries profile, which described the fishing industry and the basis for fisheries management, as well as a model NPOA–IUU based on the format for NPOAs contained in the Technical Guidelines. The fisheries profile described Galactia’s fishing industry, fisheries management, research,

development assistance and international and regional law and relations. In introducing the model NPOA–IUU, Ms Swan emphasized that it was only one example and countries could select other “tools” from the toolbox to fit their particular needs and requirements.

46. The model NPOA–IUU for Galactia was then presented as an example of possible components, or tools, that could be included in an NPOA–IUU. It is in Appendix I. Ms Swan further explained that the NPOA–IUU could be developed in whatever way is best for each State. Some issues that might be considered in formulating an NPOA–IUU were outlined, including:

- fisheries management policy and priorities;
- cost-effective strategies;
- objectives in combating IUU fishing;
- regional cooperation and assistance; and
- constraints in combating IUU fishing.

47. In discussion, Ms Swan pointed out that the model NPOA–IUU was developed before any country had formulated its NPOA–IUU and provided FAO with a copy, and that it was intended to encourage thinking and serve as a broad, generic illustration for more specific actions that States intended to take. It was expected that States would formulate more concrete plans, applicable to their circumstances. In this sense, it was explained that the model NPOA–IUU did not represent a planning cycle document, and that States should include planning in their documents, including timeframes, responsibilities and the need for evaluations.

48. Concern was expressed about whether an NPOA–IUU could be adapted to the basic laws of a country. Ms Swan explained that one of the actions envisioned in the IPOA–IUU was to update fisheries and related laws, so far as the constitution of a country permitted, in order to incorporate international and regional law and standards that had been developed over the past decade. It was stressed by several participants that in the absence of a solid legal foundation, it would be very difficult to take measures and actions that were strong enough to combat IUU fishing.

REVIEW OF NATIONAL AND REGIONAL PLANS OF ACTION ALREADY PUBLISHED FOR THE WEST AFRICAN SUBREGION AND OTHER REGIONS

49. Mr Douman reviewed several NPOAs–IUU that had been developed in different parts of the world. He noted that although the Technical Guidelines to support the implementation of the IPOA–IUU proposed a format for the elaboration of NPOAs–IUU, there were no strict rules for the development of these national plans. Depending on national circumstances and in particular, the nature and extent of the IUU fishing problems being encountered, countries had a wide degree of flexibility in structuring their NPOAs–IUU. The most important consideration was that countries took steps to develop these plans as a means of ensuring that they had a comprehensive and coordinated approach to address IUU fishing in all its forms and in all capture fisheries.

50. It was explained that according to information available to FAO, not more than 25 NPOAs–IUU had been elaborated and disseminated worldwide. Two of those plans had been developed in the West African Subregion; in Ghana and The Gambia. Mr Douman invited participants from these countries to provide some insights into the practice and methodology that had been employed in elaborating these two NPOAs–IUU.

51. Mr Papa Yaw Atobrah, Head, Monitoring Control and Surveillance, Ministry of Fisheries, Ghana, made a presentation on the process followed in developing the NPOA–IUU in Ghana. He pointed out that a multisectoral approach had been adopted involving representatives from the judiciary, ports and harbours, industry and finance, fisheries and the environment, transport, the shipping register, foreign affairs, navy, police, customs, University of Ghana and fishers groups.

52. The process of elaborating the NPOA–IUU commenced with informal consultations. In addition, a range of documents were consulted including the National shipping and Fisheries Acts, 1982 UN Convention, 1993 FAO Compliance Agreement, 1995 UN Fish Stocks Agreement and the Code of Conduct. At the outset, the convener of the process briefed stakeholders on the different aspects of IUU fishing while taking into account the national fisheries management plan. Efforts were made to ensure that good links were established between different government agencies and other stakeholders because it was recognized that broad support was required for the smooth implementation of the NPOA–IUU.

53. Following initial consultations, working groups were established to review the responsibilities of all States, flag States, port States, coastal States and trade and related matters. In this way the NPOA–IUU was developed taking into account all the major issues contained in the IPOA–IUU. In the process it was found that national laws were weak in some areas and that they did not reflect some of the more important international fisheries developments following the 1992 United Nations Conference on Environment and Development (UNCED). Other weaknesses were apparent including a lack of effective coordination between government agencies. Consequently, efforts were made to resolve these problems by strengthening legislation and taking other measures.

54. Mr Atobrah noted that the elaboration of the NPOA–IUU and the need to address IUU fishing presented a number of challenges such as how to exercise effective control over nationals fishing beyond Ghana’s EEZ and the possibility of accepting evidence from other countries for use in Ghanaian courts. These issues have now been resolved with a review of Ghana’s fisheries legislation.

55. In response to the presentation by Mr Atobrah, discussions focused on a range of issues including how to secure control over nationals, the benefits of a participatory approach to the elaboration of the NPOA–IUU and the need for effective regional cooperation in addressing IUU fishing. He noted that if Ghana was required to repeat the process for the elaboration of a NPOA–IUU it would probably take a similar approach to that selected initially as a multisectoral, participatory approach had proven to be most effective.

56. Mr Nfamara Dampha, Assistant Director of Fisheries, Fisheries Department, The Gambia, provided a briefing for the Workshop on the approach taken in his country for the development of the NPOA–IUU. He stated that the national plan reflected some of the recommendations of the Fisheries Stakeholders Meeting, April 2003. In addition, the elaboration of the NPOA–IUU drew on subregional documents relating to the harmonization of fisheries policies and legislation. The NPOA–IUU disseminated by New Zealand was also used as a point of reference.

57. In the process for developing the NPOA–IUU, broad national consultation had been undertaken with representatives from the judiciary, fisheries, ports, navy, association of fishing companies, fishers’ representatives and FAO. Input from stakeholders had been provided before, during and after the elaboration of the NPOA–IUU. Some stakeholders had provided inputs in writing while others provided informal comments. An important aspect of the NPOA–IUU was the preparation of a timeframe over the period 2005 to 2007 for its development and implementation.

58. Mr Dampha stressed the need to ensure that there was a firm legal base to support the implementation of the NPOA–IUU. With GEF funding, The Gambia had been in a position to revise its Fisheries Act and Regulations, incorporating many of the important aspects of the NPOA–IUU.

59. In discussions, it was noted that stakeholder participation was important to ensure that all interests were represented and that there would be support for the implementation of the NPOA–IUU. It was further noted that although the SRFC was not directly involved in the elaboration process, the Commission’s work relating to the harmonization of policies and legislation was reflected in The Gambia’s NPOA–IUU.

60. Mr Doulman thanked the participants from Ghana and The Gambia for their very useful presentations pointing out that the information they had provided should be of benefit to other participants in the Workshop after they returned home and commenced work on the elaboration of their respective NPOAs–IUU. He added that the development of the NPOA–IUU was only the first step and that other elements in the planning cycle such as implementation, monitoring, review and evaluation would need to be undertaken. Indeed Mr Doulman stressed that the IPOA–IUU provided for a review process four years after the finalization of the NPOA–IUU. The intention of this review was to ensure that NPOAs–IUU remained current and “living” documents capable of remaining abreast of changing circumstances in the fisheries sector.

61. Mr Doulman reminded the Workshop that many of the measures foreseen in the IPOA were already been implemented by countries. In particular he noted that countries already prohibited in their legislations activities such as fishing without an authorization, fishing with banned gears and fishing in closed areas and seasons. Moreover, most countries were attempting to strengthen their MCS capacities and some were moving to introduce mandatory VMS. Countries should therefore realize that they were not starting from a zero position when they commenced the elaboration of their NPOAs–IUU.

MAKING RESPONSIBLE DECISIONS ABOUT IUU FISHING: THE CASE OF THE “GALAPAGOS BEAUTY”

62. To reinforce the concepts and information presented in the Workshop concerning the range of measures to prevent, deter and eliminate IUU fishing and to encourage participants to interpret and apply them, a problem-solving exercise relating to the “Galapagos Beauty” was undertaken. The outline of the exercise is attached in Appendix J.

63. Participants were requested to work in four groups and to decide what initial steps should be taken to address the rather complex IUU fishing problem presented in the scenario. The compositions of the working groups are attached in Appendix K.

64. **Group 1:** The Group took note of certain material facts in the case study and presented its conclusions as a factual basis for proceeding. Among its conclusions were the consideration that the “Galapagos Beauty” had no nationality and that countries had very weak control measures. The Group concluded that all information would be communicated to the MCS Unit and requested that it arranged to arrest the vessel. In addition, within the framework of cooperation with neighbouring countries and subregional countries, information on the vessel would be transmitted and collaboration and cooperation with appropriate personnel would be requested.

65. The MCS Unit must locate the vessel, know how to undertake aerial surveillance and take steps to identify the vessel and communicate details to relevant people, departments and MCS networks. The Government solicitor must take all steps to consolidate the legal aspects, including sending photos to neighbouring countries together with reports of violations. The fishers’ association must request the Fisheries Ministry to take steps to protect the fishery and punish the IUU fishers.

66. The three areas identified by the Group as most important for combating IUU fishing were legal, cooperation and follow-up with appropriate measures. If the vessel was arrested, all necessary steps should be undertaken to apply sanctions available in Zoro; information should be transmitted to neighbouring countries to encourage cooperation; and trade sanctions would be requested of Zetland, the market for the IUU caught fish.

67. **Group 2:** The Group explained its methodology and its view of the problem and the key facts. It described the responsibilities of Zoro, including sending aerial reconnaissance missions to locate IUU fishers, requesting information on the IUU fishing vessel from the International MSC Network and relevant regional fisheries organization and informing Zetland of the facts in order to prevent the landing and sale of the IUU caught fish.

68. The Group considered two scenarios. In the first, an enforcement vessel was dispatched to bring the Galapagos Beauty to port, where international and national law would be used to sanction its actions. In the second scenario, the vessel would not be located during aerial surveillance. Neighbouring countries would be requested to arrest the vessel and diplomatic channels used to sensitize Zetland. A role would be given to the members of the Fisheries Committee in this case. The Senior MCS Officer would inform the International MCS Network and request information and data. The Chief Fisheries Officer (CFO) would obtain further information on the vessel and advise the authorities of the Port of Hella and Zetland to avoid the export and sale of the IUU caught fish. The Government Solicitor would advise legal issues and the fishers' representative would sensitize fishers on the activities taking place in order that they could urgently contact the fishers' associations in neighbouring countries and activate NGOs and international organizations to lobby so that the vessel could not land its product in Hella or sell it in Zetland. In general, these associations should be kept informed of IUU fishing activities and strategies developed to deal with them. The Minister should coordinate all these activities and account to authorities. In addition, a commission or committee should be established to follow up the situation until its final resolution.

69. **Group 3:** The Group concluded that the "Galapagos Beauty" was a stateless vessel that had engaged in IUU fishing activities and that Zoro had limited capacity for enforcement. In this context, it assigned the following roles to the relevant committee members. The MCS Officer was to request information about the vessel's history from the International MCS Network and the other relevant RFMO; alert other MCS officers in the region; continue monitoring the movement and plans of the vessel through the frequency that was used to intercept radio conversations between the captain and the owner; inform the Chief Fisheries Officer about the information received and actions taken. The Chief Fisheries Officer was to alert other CFOs in the region about the situation; inform the minister that the vessel was expected to offload its catches at Hella in two days time and brief him about the actions of the MCS Officer; inform the Oceanic Fisheries Commission about the situation. The President of the Fishers' Association was to ask its members to remain calm and continue to provide information about the vessel and educate its members about the importance of providing information in similar situations. The Government Solicitor was to give legal advice to the minister about international trade related issues; advise whether there was an extradition treaty between Zoro and Hella and prepare the case for prosecution. The Coordinator of the International MCS Network was to provide information about the vessel's history, characteristics and ownership and request additional information from other International MCS Network members. The Oceanic Fisheries Commission was to provide information about the vessel's previous offences; blacklist the vessel if this had not already been done and apply political pressure on Falu to impose sanctions on the vessel's owner. The minister was to consult with his counterpart in the port State of Hella so the vessel would be detained upon reaching port; inform the Oceanic Fisheries Commission; request the Attorney General to take the necessary legal action; explore the possibility of blocking the sale of catches in Zetland and inform cabinet and parliament about the outcome of the meeting and the actions being taken.

70. **Group 4:** The Group concluded that there were two scenarios; the first where the vessel had been taken to port in Zoro by its authorities and the second where the vessel remained in Zoro's EEZ and in the EEZ of neighbouring countries. In the first scenario, the MCS Officer was to arrest the vessel using all means available and seize its gear and fish and fish products. Sanctions would be imposed in accordance with Zoro's laws and government lawyers would prepare the case for court. The President of the Fishers' Association would provide information about the vessel and assure its colleagues that measures against the vessel were being taken.

71. In the second scenario, where the vessel was not arrested in Zoro, the Chief Fisheries Officer was to continue to provide details regarding the activities of the vessel to the Oceanic Fisheries Commission, the MCS Coordinator, those responsible for fisheries in the port State of Hella (to take measures relating to offloading and export), Falu (to take measures against the vessel owner) and Zetland (to intercept the fish products). The President of the Fishers' Association was to continue to provide information as needed on the activities of the vessel, including any infractions and inform the

fisheries community about the measures taken by the Government of Zoro. The minister was to give an account to Parliament on the steps that had already been taken.

72. Following the presentations of the Working Groups, Mr van der Heijden was provided his reflections on the reports. He observed the very lively discussions and the good participation of all members of the Working Groups. He also noted that only one Group seemed to have given attention to the need to collect extra information about the activities of the vessel before actions aimed at arresting it were set in motion. Such verification might be necessary to make a successful legal case against the captain or owner of this stateless vessel.

73. In all reports Zoro, being a state with very limited MCS capacity, relied on information and other assistance from both the authorities in neighbouring States as well as organizations such as the International MCS Network and the Ocean Fisheries Commission. Mr van der Heijden pointed out that at least one Group had also considered that the Zoro authorities should share all the information they collected about the vessel in the course of its incidence with nearby States, international bodies and networks. States had not only the right to ask for information and other assistance, but they also a duty to assist others by providing the information and sharing experience.

74. Mr van der Heijden noted that the lessons learned from the pursuit of the vessel would be useful for the authorities in neighbouring States and for regional organizations and international networks. A good description of the case could also serve to raise awareness of the general public about the detrimental effects of IUU fishing, both in Zoro and in other countries that were possible markets for IUU caught fish. For example, consumer organizations and NGOs in Hella could undertake awareness campaigns using a good description of the "Galapagos Beauty" case documented by the Zoro officials.

75. Some participants commented that it was not only useful to learn how to deal with an IUU fishing vessel such as the "Galapagos Beauty" but that it would be beneficial to learn of the policies and measures that might be instituted to prevent the entry of such pirate vessel into the EEZ. Participants also stressed the need for regional cooperation to deal effectively cases of IUU fishing.

IDENTIFICATION OF MAJOR IUU FISHING PROBLEMS IN THE WEST AFRICAN SUBREGION AND SOLUTIONS TO OVERCOME THESE PROBLEMS

76. The Workshop considered a range of IUU fishing problems prevalent in offshore industrial fisheries in the West African Subregion. As a Workshop exercise, participants were requested to develop priority listings by country. However, it was stressed that the priority ranking of issues as reflected in the Workshop report for each country and the region as a whole did not reflect national or regional priorities. Participants were also requested to propose a list of actions to be undertaken to address the IUU fishing problems in offshore industrial fisheries. The priority listing of issues by country and for the region and the proposed actions to combat these problems are attached in Appendix L.

PROPOSED NATIONAL, REGIONAL AND INTERNATIONAL FOLLOW-UP ACTIONS TO THE WORKSHOP

77. The Workshop agreed that the following broad steps were required to develop and implement effectively NPOAs–IUU in the West African Subregion. These follow-up actions were identified at the national, regional and international levels.

Actions to be undertaken by States

78. The Workshop agreed that States should take the following action:

- Sensitize colleagues and government about the importance of developing an NPOA–IUU.
- Arrange formal briefings or short courses for colleagues and other relevant stakeholders to inform about the material and outputs of this Workshop.
- Establish a process to develop an NPOA–IUU.
- Recommend a legislative review so the NPOA–IUU can take into account gaps, weaknesses and areas for strengthening in the law and can update as appropriate.
- Review policies and laws with a view to possible harmonization in the subregion and ensure that they are developed to accommodate future developments in the fisheries sector such as technology, trade and globalization.
- Review financial and budgetary aspects relating to the development of an NPOA–IUU.
- Review the MCS system to evaluate whether its structure and operations can adequately combat IUU fishing.
- Involve as many people as possible in MCS efforts, with the aim of promoting a participatory approach.
- Take measures to combat unreported catches and discards.
- Review possibilities for human capacity development and include them in the NPOA–IUU.
- Promote accurate and reliable collection of data to support the implementation of the NPOA–IUU.
- Support the importance of research in providing data and recommendations for fisheries management and in reinforcing national legislation.
- Strengthen bilateral and multilateral efforts to cooperate and consult with other countries in the subregion.

Action to be undertaken in the West African Subregion

79. The Workshop agreed that the following action should be taken in the region:

- Strengthen cooperation on a regional level through existing fisheries organizations.
- Promote expanded regional cooperation at all levels, including where possible the exchange of information, MCS, harmonization of legislation and policies and address gaps in cooperation.
- Consider strengthening human capacity development that provides for hands-on training through attachments to other countries in the subregion.
- In developing an NPOA–IUU, take note of the involvement of powerful interests in IUU fishing, including organized crime.

Action at the international level

80. The Workshop agreed that the following action should be taken at the international level:

- Commit to and implement relevant international fisheries instruments.
- Support the international criminalization of IUU fishing.
- Support internationally agreed market-related measures and other economic sanctions against IUU fishers, including exploring action within the World Trade Organization (WTO).

REPORT OF THE WORKSHOP REPRESENTATIVES

81. At the outset, on behalf of the participants, the Workshop Representatives thanked and congratulated the Workshop organizers for their laudable initiative in requesting the participants to give their views on the organization of the Workshop. The objective of the initiative was to improve the organization of future Workshop. The Representatives had consulted almost all the participants in

order to gather their observations and suggestions on the Workshop. These mainly concerned the presentations, interaction in the Workshop and its outcomes as well as matters relating to travel, reception at the airport, accommodation and catering. The participants expressed their opinions discretely and in an anonymous way.

82. Overall, the participants expressed their high satisfaction about the manner in which the Workshop was prepared and conducted and for this reason they congratulated the organizers and FAO for the topic chosen as it is a main concern for all the participating States.

83. However, they made the following additional observations and suggestions:

- The presentation on the Technical Guidelines on IPOA–IUU was long and difficult to follow. The time for the discussion was considered to be insufficient.
- The presentation of the formulation of a NPOA should have been longer because of its importance and its large area of application.
- The reception at the airport had some shortcomings.
- The catering was not exotic enough.
- The hotel was too far from the city centre.
- Concerning the distribution of the documents, the participants expressed their wish that future distribution be done through their respective FAO Representations in order to reduce the cost of printing which might not have been forecast in the budget of their respective administrations.

CLOSURE OF THE WORKSHOP

84. On behalf of the FAO Regional Representative for Africa, Mr Jallow, the Workshop Coordinator, thanked all participants, resource persons and FAO colleagues for their cooperation and active participation in the Workshop. He expressed FAO's continued commitment to assist countries in the further implementation of the Code of Conduct for Responsible Fisheries at national and regional levels, and in the development of their national plans for the implementation of the provisions of the International Plans of Action, particularly for IUU fishing. He also thanked FAO Headquarters' Fisheries Department for initiating the Workshop, for securing funding and for its continued support to the West African Subregion.

85. Mr Doulman expressed his thanks to the participants, FAO colleagues and the FAO Consultant for their support and hard work before and during the Workshop. He especially thanked the Ministry of Agriculture, Nature Management and Food Safety of the Netherlands for facilitating the participation of Mr van der Heijden in the Workshop by meeting part of his expenses through the Ministry's financial contribution to the International Agricultural Centre (IAC, Wageningen-UR). Mr Doulman also thanked the translator and the interpreters for their excellent and professional work during the Workshop. He stressed the importance of combating IUU fishing and encouraged participants to focus attention on the implementation of IPOA–IUU after their return to their countries. Mr Doulman underscored the importance of elaborating NPOAs–IUU and then taking the necessary action to ensure that they were implemented effectively. He reminded participants that efforts to manage fisheries in a sound and responsible manner would be undermined if IUU fishing was not eliminated. Finally, the Technical Secretary thanked the FAO FishCode Programme for funding the participation of Ms Swan. The FishCode funds came from the Programme component project GCP/INT/849/USA, "Support for Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing".

86. On behalf of the participants, Ms Monique Bondja, Head of the Centre for Applied Research, Department of Fisheries, Ministry of Livestock, Fisheries and Animal Industry, Cameroon, thanked FAO and its staff for organizing a very timely Workshop for the West African Subregion. She pointed out that IUU fishing was a major problem in the Subregion and encouraged fellow participants to promote the implementation of the IPOA–IUU when they returned to their respective countries.

87. The Workshop closed at 16.30 hours on 1 December 2005.

Agenda

OPENING OF THE WORKSHOP

ADMINISTRATIVE ARRANGEMENTS AND TECHNICAL ISSUES FOR THE WORKSHOP

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

2001 INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE IUU FISHING: BACKGROUND AND PROGRESS TOWARDS IMPLEMENTATION

PLANNING FOR SUCCESS: WHAT IS AN ACTION PLAN?

PRESENTATION AND DISCUSSION OF THE IPOA-IUU

CONSIDERATION OF THE TECHNICAL GUIDELINES ON IUU FISHING IN THE CONTEXT OF REGIONAL ISSUES

NATIONAL PLAN OF ACTION CASE STUDY: A CONTINENTAL STATE

REVIEW OF NATIONAL AND REGIONAL PLANS OF ACTION ALREADY PUBLISHED FOR THE WEST AFRICAN SUBREGION AND OTHER REGIONS

MAKING RESPONSIBLE DECISIONS ABOUT IUU FISHING: THE CASE OF THE "GALAPAGOS BEAUTY"

IDENTIFICATION OF MAJOR IUU FISHING PROBLEMS IN THE WEST AFRICAN SUBREGION, THEIR RANKING IN IMPORTANCE AND SOLUTIONS TO OVERCOME THESE PROBLEMS

PROPOSED NATIONAL, REGIONAL AND INTERNATIONAL FOLLOW-UP ACTIONS TO THE WORKSHOP

REPORT OF THE WORKSHOP REPRESENTATIVES

CLOSURE OF THE WORKSHOP

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Statement

by

Mr Edouard Kouka Tapsoba
Deputy Regional Representative and
FAO Representative in Ghana

Honourable Minister for Fisheries of Ghana,
Director of Fisheries,
Ladies and gentlemen,
Dear Participants,

I am very happy to welcome you all, on behalf of the Assistant Director-General and Representative for Africa, to this meeting.

We all know that illegal, unreported and unregulated (IUU) fishing has been propelled to international prominence because it undermines sustainable fisheries management. By undermining fisheries management objectives, IUU fishing can lead to the collapse of a fishery sector by seriously impairing efforts to rebuild depleted fish stocks. That may result in long and short term economic losses and missed social opportunities, and may also review negative effects on global food security. If left unchecked, IUU fishing can completely negate the benefits of effective fisheries management. Unfortunately, IUU fishing is found in all African capture fisheries, irrespective of location, species targeted, fishing gear employed or intensity of exploitation.

The threat of IUU fishing on achieving sustainable fisheries was recognized by the FAO Committee on Fisheries (COFI) in 1999. It, therefore recommended the formulation of an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU), which was adopted by COFI in March 2001, within the 1995 FAO Code of Conduct for Responsible Fisheries (CCRF). In December 2003, the FAO Conference adopted a Resolution concerning progress with the implementation of the IPOA–IUU. The Resolution noted the continuing high and growing incidence of IUU fishing and related activities, as well as the lack of political will, commitment and capacity by some governments to deal effectively with such fishing or to meet their obligations under international law. The Resolution urged States and Regional Fisheries Management Organizations (RFMOs) to take direct and indirect action against IUU fishing, as envisaged by the International Plan of Action.

The many dimensions of IUU fishing and its dynamic nature mean that we cannot be complacent. We should be committed to eliminate it as one of the major obstacles to achieving responsible and sustainable fisheries. We need to increase our efforts to ensure that the International Plan of Action is implemented fully and effectively. FAO is aware that its members are highly conscious of the need to proactively implement the International Plan of Action-IUU and have adopted measures to combat IUU fishing. Some have enacted new laws to address IUU fishing. In addition, it is worth noting that some West and Southern African countries have formulated National Plans of Action to combat IUU fishing (NPOAs–IUU).

Fisheries monitoring, control and surveillance (MCS) is a key element in fisheries management and some African countries in the sub-region are strengthening their MCS programmes. Gabon has introduced new technologies like the Vessel Monitoring System (VMS) and Ghana and Cameroon will follow soon. Such initiatives in the sub-region will assist countries achieve a higher degree of compliance with national fishery policy and laws, while facilitating the implementation of the International Plan of Action. Cooperation in sub-regional MCS should be strengthened for effective MCS cost-recovery and self financing.

Ladies and Gentlemen,

FAO is conscious of the lack of financial and human resources in the development of the National Plans of Action and the need for national and regional training programmes related to IUU fishing to enhance the human and institutional capacity. This workshop and the funding of some pilot National Plan of Action in the sub-region is in response to the call of its members. This workshop is to develop national capacity in 21 countries along the West and Central African coastline to enable the countries formulate their own National Plan of Action, and as a result, meet the requirements of the International Plan of Action.

It is believed that, at the end of the workshop, the participants would have been aware of the deleterious effects of IUU fishing and the need to work together to combat it; they would have understood the International Plan of Action and its relation to other international instruments; they would have got a clearer definition of the steps the fisheries administrations should take to formulate National Plan of Action that implement the International Plan of Action; and shared the appropriate measures needed in the sub-region to prevent, deter and eliminate IUU fishing.

I would like to appeal for commitment and concerted action to overcome the constraints and optimize results of efforts being undertaken at the national and sub-regional level to implement the International Plan of Action. That will ensure that the social and economic interests of fishing communities, law-abiding fishers and generations yet to come are not jeopardized.

Dear Participants,

Last but not the least, as one would say, Honourable Minister of Fisheries of Ghana, your presence here this morning, despite your enormous responsibilities is testimony to your personal commitment to the development of the fisheries sector not only in your own country but also in other African Countries for which fisheries represents an extremely important source of employment and income and an important means to combat poverty.

So, Honourable Minister, Welcome! We are always delighted to have you by our side. This is a great encouragement to us all.

While I assure you of FAO's commitment to assist its member countries in the fight against IUU fishing, I wish you fruitful deliberations and thank you all for your patience and attention.

Statement

by

The Honourable Mrs Gladys Asmah
Minister of Fisheries, Accra, Ghana

Mr Chairman,
Mr Edward Tapsoba, FAO Representative for Ghana and other FAO Representatives,
Distinguished Participants,
Ladies and Gentlemen of the Press,
Good morning, Ladies and Gentlemen,

I welcome you all to Ghana, especially those who are here for the first time.

The Ghanaian coastal waters experience seasonal coastal upwelling, which supports commercially important pelagic and demersal fish species. These fisheries are controlled by two management systems: traditional based on community institutions and social practices at the local level and a system consistent with international management principles based on free access and regulated by the State. In promoting traditional management, attempts have been made to establish Community-based Fisheries Management Communities (CBFMCs) in all the fishing communities in the 17 Districts along the coast. In the effort, the fishing communities adapt and implement fisheries resource management plans and make by-laws to give effect to the activities.

The State regulations are based on fisheries laws that are consistent with international principles. The laws are within the Fisheries Act, Act 625, passed into law in 2002. The Act applies to activities only under Ghanaian jurisdiction, which creates a gap in implementing many of the developments including the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU). However the Act is regarded as a platform for developing and strengthening fisheries management in Ghana. It is also used as a major reference point for capacity-building and addressing management issues that include illegal, unreported and unregulated (IUU) fishing activities.

There are obvious constraints in implementing the laws because of a lack of relevant human and infrastructural capacity, financial resources and weak integration with other government agencies. Nevertheless efforts are being made to make the laws a foundation to build upon and prioritize management practices through subregional, regional and donor assistance.

We have prepared our NPOA–IUU and submitted it to FAO. We have also submitted draft fisheries Regulations through the Attorney General’s Office to Parliament to give effect to the Fisheries Act, Act 625.

Fisheries Act 625 of 2002, will identify provisions that will be most effective in combating IUU fishing, such as Monitoring, Control and Surveillance (MCS), licensing of fishing vessel and the import-export of fish and fish products. The review will rationalize and strengthen the legal regime and make it possible to use all relevant tools in the IPOA–IUU “toolbox”.

Ghana has made progress in MCS by introducing Vessel Monitoring System (VMS), but it still does not adequately deter its nationals or vessels from supporting in IUU fishing beyond areas of national jurisdiction, as required by the IPOA–IUU. It will therefore take measures to adopt legal requirements for Ghanaian vessels to acquire licenses to fish in the high seas, make report constant with international obligations under the 1995 UN Fish Stocks Agreement, comply with boarding, inspection and observer requirements on the high seas, and prohibit Ghanaian vessels that fish on the high seas

from engaging in IUU fishing or undermining conservation and management measures. It is also proposed for Government to prohibit Ghanaian sailors from engaging in IUU fishing.

Mr Tapsoba, Ladies and Gentlemen, whichever option is chosen the essential prerequisite for success will be an effective system of enforcement, which might often have to be arranged on concert with authorities of neighbouring countries. That also attracts the cost recovery component of MCS. It is very encouraging to note that some countries in the subregion are focusing on change in the approach to fisheries management through strengthening institutions, and Ghana is no exception. The world's fishing industry is edging towards crisis, and most at risk are African's million of fishermen and women, who are among the continent poorest communities. Unfortunately, IUU fishing is being observed in several capture fisheries in the subregion, irrespective of location, species targeted, fishing gear employed or intensity of exploitation and that can lead to overfishing, which seems to have a link to poverty.

At the international level, there has been increasing emphasis on reducing the problems caused by illegal fishing and the concern was again reiterated at the World Summit on Sustainable development held in Johannesburg in September 2002. There was agreement to develop and implement national and, where appropriate, regional plan of action to implement the IPOA-IUU, because, if left unchecked, IUU fishing can frustrate the benefits that accrue to the fishing communities through the various fisheries management approaches.

Mr Tapsoba, Ladies and Gentlemen, it is also for some of these reasons that the President of the Republic of Ghana has created a full Ministry of Fisheries with cabinet statutes so that fisheries issues will be dealt with an expeditious manner. In Ghana we are in the process of introducing alternative livelihoods to supplement the incoming of fishers and people in the fishing communities who from ten percent of the population.

As the major objective of this workshop is to develop national capacity so that countries can formulate NPOAs to meet the requirement of the IPOA-IUU, I can only rejoice that it is being held in Ghana at a time that the Government is putting a lot of effort in combating IUU fishing, and reduce poverty in the Fisheries communities. As a major step in capacity-building in the subregion to combat the IUU fishing threat, I have no doubt that you will all leave the beautiful city of Accra with tools that will assist you to formulate national plans of action to prevent, deter and eliminate illegal, unreported and unregulated fishing in West and Central Africa.

On that note, Ladies and Gentlemen, I formally open the Regional Workshop on formulating NPOAs to Prevent, Deter and Eliminate IUU in our subregion.

Thank you all for your attention.

**1995 FAO Code of Conduct for Responsible Fisheries:
development considerations and implementation challenges**

David J. Doulman
Fisheries Department
FAO, Rome, Italy

BACKGROUND

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

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

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

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

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

- sustainable utilization of fisheries resources in harmony with the environment;
- use of capture and aquaculture practices that are not harmful to ecosystems, resources or their quality;

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

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

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

- incorporation of added value to such products through transformation processes meeting the required sanitary standards; and
- conduct of commercial practices so as to provide consumers access to good quality products.

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

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

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

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

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

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

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

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

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

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

progress achieved with national implementation through the use of a questionnaire. This information would then be incorporated into a consolidated report for COFI.⁸

SCOPE AND OBJECTIVES

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

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

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

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

STRUCTURE

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

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

- Article 6 General Principles;
- Article 7 Fisheries Management;

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

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

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

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

RELATIONSHIP WITH OTHER RECENT FISHERY INSTRUMENTS

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

- incidental catch of seabirds in longline fisheries;
- conservation and management of sharks;
- management of fishing capacity; and
- prevention, deterrence and elimination of illegal unreported and unregulated (IUU) fishing.

1993 FAO Compliance Agreement

The 1993 FAO Compliance Agreement is an integral component of the Code, even though it has a different legal status to the Code. The purpose of the Agreement is to permit countries to take effective action, consistent with international law, to deter the reflagging of vessels by their nationals as a means of avoiding compliance with high seas conservation and management measures. This means that countries that have accepted the Agreement are obligated to ensure that their flag vessels operating on the high seas are duly authorized to fish there. Such authorization should, as a result, enhance flag State control in high-seas fisheries and enable these fisheries to be more effectively managed.

1995 UN Fish Stocks Agreement

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

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

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

International plans of action and strategies

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

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

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

IMPLEMENTATION

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

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

Food and Agriculture Organization of the United Nations

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

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

- dissemination of text of the Code through FAO's work with governments and civil society. The Code and its guidelines have been distributed in FAO's five official languages. Furthermore, FAO co-operated with other partners to facilitate dissemination of the Code in non-official languages. The Code is available in more than 50 languages making it the most translated FAO document ever;
- FAO worked with the UN Division of Ocean Affairs and Law of the Sea to produce a consolidated document including the Code, 1993 FAO Compliance Agreement, and 1995 UN Fish Stocks Agreement. This document also has a cross-referenced index for the three instruments;

- FAO staff, while undertaking routine duty travel, serve to promote awareness of the Code and its implementation at every opportunity;
- the dissemination of a CD-ROM containing all documents relating to the Code of Conduct;
- FAO Members have been encouraged to accept the 1993 FAO Compliance Agreement. Circular State letters to this effect have been despatched on several occasions. FAO's efforts to urge acceptance of the Agreement continues;
- at all meetings of FAO regional fishery bodies the Code has been addressed. The meetings are utilized as a vehicle for promoting the Code and for obtaining feedback on national initiatives already underway towards implementation, and difficulties being encountered. FAO is also actively promoting the implementation of the Code through non-FAO fishery bodies;
- establishment of an Internet Website on the Fisheries Department Home Page to facilitate public access to the Code of Conduct and the 1993 FAO Compliance Agreement. Some FAO Members have also established sites for their national programmes. The FAO Page has links to these national sites;
- elaboration of FAO technical guidelines to support the Code's implementation. These guidelines are intended to provide practical guidance and advice for policy makers and fisheries managers on how to implement the Code;
- an interregional programme of assistance, known as FishCode, to support the Code's implementation in developing countries;
- FAO is working with the UK Government on a major project in 24 West African countries. The project is designed to promote the sustainable livelihoods of poor coastal and riparian countries in Sub-Saharan Africa through the implementation of the Code;
- FAO facilitates regional workshops to disseminate and support the implementation of the Code. These workshops depend on extra-budgetary funding. The Organization also technically supports national Code workshops when this is possible;
- on an ongoing basis FAO assists Members to develop fishery management plans, to improve regulatory frameworks etc, with a view to securing sustainable fisheries. The incorporation of critical elements of the Code into national plans greatly serves to facilitate national implementation; and
- FAO is focusing on a range of other activities that indirectly foster the Code's implementation, and in turn the monitoring of its implementation. These activities include the elaboration of indicators of sustainability for aquaculture and capture fisheries; the strengthening of national regional and global information systems on fishery and aquaculture production systems and resources. FAO also provides assistance to Members in their effort to implement the Code and through its field programme.

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

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

Regional initiatives

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

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

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

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

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

National activities

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

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

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

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

In response to COFI directives in 1997 concerning the need for FAO to monitor the implementation of the Code, FAO reported to the Committee in a substantive manner at the 1999,

2001, 2003 AND 2005 Sessions of COFI. These reports consolidated and analysed the self-assessment information provided to FAO by its Members.

In the 2005 report it was noted that trends in constraints and solutions to the implementation of the Code of Conduct remained generally unaltered from 2003. It was further noted that even though more advanced forms of fisheries management practices, such as the use of stock specific target reference points, were being applied, many stocks under such regimes continue to be either fully or over exploited. The same was true for fisheries where VMS was now deployed as a standard MCS tool. In addition, both the ecosystem approach to fisheries and the implementation of the precautionary approach in fisheries management remained weak. This matter was compounded by important data gaps. Moreover, product traceability and trade instruments continued to be largely underexploited as control mechanisms. However, illegal harvesting of resources was a ubiquitous problem reported by a majority of Members (86 percent requiring control mechanisms at all levels to block avenues for offenders to market illegal harvests).

In the COFI report in 2003 FAO Members identified the following constraints in implementing the Code of Conduct. These constraints included:

- a lack of political will to support implementation;
- fisheries not being assigned high priority nationally because of their small economic contribution and the fisheries sector being poorly organized;
- open-access fisheries that are not subject to management leading to high levels of overfishing;
- insufficient attention to the development of management plans and the application of the precautionary approach;
- strong social and economic pressures on fisheries including vulnerability to poverty and a lack of alternative employment opportunities for fishing communities;
- inadequate resources (funds, trained personnel, equipment, research capabilities and facilities);
- poor levels of scientific research;
- weak institutional capacity (including poor national inter-agency coordination);
- conflicts between artisanal and industrial fishers;
- poor and inappropriate policy and legal frameworks;
- poorly developed MCS;
- lack of fishers participation in decision making concerning management;
- lack of awareness by stakeholders (including officials) about the Code and what it means for fishing communities leading to a lack of cooperation and irresponsible behaviour;
- persistent IUU fishing;
- a lack of adaptation of the Code to meet local needs;
- insufficient copies of the Code and related instruments for distribution; and
- a lack of availability of documents in local languages.

Solutions suggested by Members to address these constraints involved:

- additional technical support from FAO and the international donor community to strengthen capacity and institutions (including training and the mounting of meetings to disseminate information about the Code to officials and other stakeholders);
- improved national inter-agency cooperation concerning the implementation of the Code;
- expansion of vessel buy-back programmes and industry restructuring arrangements to reduce fishing capacity;
- enhanced research capacity with the possibility of emphasis on twinning arrangements;
- implement plans for the recovery of over-exploited stocks;
- placement of observers on vessels the implementation of better fisheries management that control fishing effort;
- greater emphasis on social and economic aspects of fisheries management;
- initiate policy and legislation reviews to incorporate elements of the Code;
- improve MCS systems;
- promote alternative employment opportunities for fishers;

- translation of the Code and related instruments into local languages so as to deepen dissemination and awareness building;
- ensure that adequate copies of the Code are available in country;
- campaigns to create greater awareness about the Code to improve education and outreach including stakeholders to better organize themselves;
- develop technical guidelines for small-scale fisheries management;
- support for stronger NGOs involvement in the implementation of the Code; and
- facilitation of cooperation among fishers and national and regional organizations concerned with fisheries management.

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

In considering national efforts to implement the Code, COFI has emphasized that the Code is an important basic instrument to facilitate sustainable utilization of fishery resources and hence to contribute to food security and wellbeing of people. Among other proposals, COFI requested FAO to assist further with the implementation of the Code through the provision of Code-related materials and through organizing workshops. Attention has been drawn to the large number of illiterate fishers in many countries and it has been suggested that suitable vehicles should be developed, such as audio-visual material, for informing such people of the Code and its objectives. FAO has attempted to address this issue through the preparation of a video and documents in non-technical language.

CONCLUSION

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

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

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

The implementation of the Code will be improved if:

- additional technical guidelines to support the implementation of the Code are prepared and translated into the official FAO and other languages. Translation of guidelines into local languages by NGOs and other stakeholders is encouraged as a means of transmitting this information to fishing communities. The type of information contained in the guidelines may need to be reviewed so that they contain more action-orientated activities in order to achieve the Code's objectives;
- additional extra-budgetary funding is available to support implementation of the Code;

- the Code's principles and articles are incorporated into national fisheries policy, and, as appropriate, legislation; and
- more effective monitoring indicators for the Code at the national, regional and global levels are elaborated by FAO in consultation with its partners. This will permit better assessments to be made as to the extent of the Code's implementation and its impact on sustainability.

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

**2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing:
background and progress towards implementation**

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INTRODUCTION

The international community has identified illegal, unreported and unregulated (IUU) fishing to be a major impediment to the achievement of long-term sustainable fisheries as called for, *inter alia*, in Chapter 17 of Agenda 21,¹¹ the 1995 FAO Code of Conduct for Responsible Fisheries,¹² the UN Millennium Development Goals¹³ and the Johannesburg Plan of Implementation.¹⁴ This is because the activities of IUU fishers undermine national and regional efforts to implement management measures that are designed to promote responsible fisheries. This is an especially grave situation since FAO in 2003 (and over the previous decade) has estimated that some 75 percent of world fisheries are already being fully exploited, overexploited or depleted.¹⁵

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

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

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

- ineffective fisheries management that fails to regulate fishery inputs and outputs;
- excess fleet capacity in some fisheries and the "pushing out" and re-flagging of vessels from managed fisheries as regulations tighten in these fisheries to other fisheries that are unmanaged or poorly managed. Often this process involves a migration of displaced fleet capacity;¹⁶
- masking of the real economic costs of vessel construction and fishing operations through the payment of fisheries-related subsidies; and

¹¹ Adopted in 1992 by the United Nations Conference on Environment and Development (UNCED).

¹² Adopted in 1995 by the Twenty-eighth Session of the FAO Conference.

¹³ Adopted in 2000 by the United Nations General Assembly at its Fifty-fifth Session.

¹⁴ Adopted in 2002 by the World Summit on Sustainable Development (WSSD).

¹⁵ FAO. 2004. The State of World Fisheries and Aquaculture. Rome, FAO. p.32.

¹⁶ This point was highlighted at the Twenty-fifth Session of the Committee on Fisheries and again reiterated at the Twenty-sixth Session of the Committee. Many countries pointed out that IUU fishing, often by displaced vessels, undermines efforts to sustainably manage fisheries at both national and regional levels.

- consistent failure by many countries, and in particular some countries that operate open registries for fishing vessels, to meet their international obligations with respect to the control of fishing vessels flying their flags.

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

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

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

It is acknowledged that the implementation of RFMO measures to combat IUU fishing are only as effective as their members permit them to be because these organizations are not supra-national entities. A failure by RFMOs to effectively address IUU fishing reflects, to some degree, a lack of political will¹⁷ by their members to take concerted and calculated steps to control fishing vessels that engage in activities that undermine the work of RFMOs and thereby render their fisheries management efforts sub-optimal.¹⁸

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

It has also been noted by some countries that IUU fishing seriously prejudices the interests of commercial fishers who abide by their national and regional authorizations to fish.¹⁹ This occurs because IUU fishers do not face the same constraints in terms of operating costs, catch limits, etc, nor do IUU fishers implement the same safety standards for fishing and support vessels and crews as is required by their counterparts who do not engage in IUU fishing.

INTERNATIONAL ACTION TO COMBAT IUU FISHING

FAO has been at the forefront of international efforts and action to address IUU fishing. The 1999 Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries²⁰ states, *inter alia*, that countries would develop a global plan of action to deal effectively with all forms of IUU fishing including fishing vessels flying "flags of convenience". This seminal Declaration set the international stage for efforts to prevent, deter and eliminate IUU fishing and provided the impetus and framework for FAO to pursue a structured suite of activities relating to the elaboration of an IPOA-IUU.

From 1999 onwards, all Sessions of the FAO Committee on Fisheries (COFI) have addressed the effects and impacts of IUU fishing on world fish stocks. In March 2001, following its adoption by

¹⁷ A lack of political will to take action to curb IUU fishing is a major constraint to dealing effectively with this type of fishing. Moreover, there is a tendency for some States to take refuge behind national policies and legislation as a means of avoiding or deferring commitments that are necessary to combat IUU fishing.

¹⁸ There is a growing impatience with diplomatic approaches to IUU fishing and the members of some RFMOs are contemplating the adoption of "name and shame" policies for vessels and flags that are perpetual IUU fishing offenders.

¹⁹ Some governments are inclining to the view that IUU fishing is no longer a 'soft or administrative offence' and that such fishing should be regarded as a more serious offence. This notion is being promulgated with the view that those fishers who engage in illegal and unreported fishing should be subject to more severe sanctions than at the present time.

²⁰ Adopted in 1999 by the FAO Ministerial Meeting on Fisheries, Rome, FAO.

the Twenty-fourth Session of COFI, the IPOA–IUU was endorsed by the Hundred and Twentieth Session of the FAO Council in June 2001. Subsequently, in November 2003 the FAO Conference considered a report on IUU fishing.²¹ The extract from the Conference Report on IUU fishing and Resolution 6/2003 are in Annex 1. In March 2005 the Ministerial Meeting on Fisheries adopted the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing. Ministers and Ministers’ representatives attending the meeting made a wide range of commitments, some of which were time bound, to combat IUU fishing. The 2005 Declaration is in Annex 2.

Following the adoption of the 1999 Rome Declaration on Responsible Fisheries and the IPOA–IUU, growing international concern about IUU fishing led the issue to be addressed by United Nations General Assembly (UNGA). Indeed, IUU fishing has been considered each year since 2000 in UNGA resolutions.²² These resolutions have, *inter alia*:

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

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

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

With a sharp focus on fisheries issues and the need to secure sustainable outcomes in the fisheries sector as promulgated at the United Nations Conference on Environment and Development (UNCED),²³ the World Summit on Sustainable Development (WSSD) addressed, *inter alia*, the scope and effects of IUU fishing. The Johannesburg Plan of Implementation, which also reflects certain decisions adopted by COFI, called for States to implement the 1995 FAO Code of Conduct for Responsible Fisheries and its related IPOAs and guidelines. Significantly, the Johannesburg Plan of

²¹ FAO. November 2003. Progress Report on the Implementation of the International Plan of Action to Prevent, deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing. FAO Conference paper C 2003/21. The Conference was “... invited to recognise the severe and adverse impacts of IUU fishing on efforts to achieve long-term sustainability in fisheries, to reaffirm its commitment to prevent, deter and eliminate IUU fishing in all its forms, and to give full effect to the implementation of the IPOA–IUU.”

²² See UNGA resolutions A/RES/55/7 (2000); A/RES/55/8 (2000); A/RES/56/12 (2001); A/RES/57/141 (2002), A/RES/57/142 (2002), A/RES/58/14 (2003) and A/RES/59/25 (2004).

²³ Agenda 21 provides the principles and a programme of action for achieving sustainable development.

Implementation²⁴ urges that States implement by 2004 national and, where appropriate, regional plans of action to give effect to the IPOA–IUU.

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

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

- encourage non-Members to become parties to their organizations;
- implement new, and strengthen existing, policies, procedures and mandates;²⁵
- develop black or white lists of vessels with a view to gaining the greater cooperation of flag States;
- implement catch certification and traceability controls on catch so that the marketing of fish taken by fishers who are known to have engaged in IUU fishing will be made more difficult, if not blocked completely; and
- RFMOs that have addressed IUU fishing, made recommendations or passed resolutions directed at preventing, deterring and eliminating IUU fishing include, *inter alia*, the Commission for the Conservation of Antarctic Marine Living Resources, the Indian Ocean Tuna Commission, the International Convention for the Conservation of Atlantic Tunas, the North-East Atlantic Fisheries Commission, the Northwest Atlantic Fisheries Organization, and the Preparatory Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.²⁶

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

IMPLEMENTATION OF THE IPOA–IUU

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

²⁴ The Plan also specifies deadlines for five fisheries issues including the development and implementation of national and regional plans of action to put into effect the IPOA for the management of fishing capacity by 2005; the establishment of representative networks of marine protected areas by 2012; and the application of the ecosystem approach to fisheries by 2010; the restoration of depleted stocks not later than 2015.

²⁵ In paragraph 80 of the IPOA–IUU, measures that States might adopt through RFMOs to take action to strengthen and develop innovative ways to combat IUU fishing are proposed. These measures include institutional strengthening, development of compliance measures, mandatory reporting, cooperation in the exchange of information, development and maintenance of records of fishing vessels, using trade information to monitor IUU fishing, MCS, boarding and inspection schemes, observer programmes, market-related measures, definition of circumstances in which vessels are deemed to have engaged in IUU fishing, education and public awareness programmes, development of action plans, examination of chartering arrangements, exchange of information on an annual basis among RFMOs, estimation of the extent, magnitude and character of IUU fishing in the convention area, records of vessels authorized to fish and records of vessels engaged in IUU fishing.

²⁶ Some RFMOs have also adopted resolutions relating to fishing by non-parties on stocks subject to management with a view to seeking their cooperation to halt their IUU fishing activities.

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

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

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

In late 2002, many countries reported to FAO that IUU fishing impacts their efforts to achieve sustainable fisheries.²⁷ Moreover, about one third of the FAO Membership stated that such fishing is problematic and is hampering their efforts to implement the 1995 FAO Code of Conduct for Responsible Fisheries.

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

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

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

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

²⁷ See FAO Committee on Fisheries document COFI/2003/3 Rev.1 Progress in the Implementation of the Code of Conduct for Responsible Fisheries and related International Plans of Action. Rome, FAO. 28p. In view of the seriousness of the IUU fishing, COFI recommended that IUU fishing be included on the Agenda of the Thirty-second Session of the FAO Conference with a view to calling attention of Members to this issue. As noted above, this recommendadtion was accepted, culminating in the adoption of FAO Conference Resoulution 6/2003.

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

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

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

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

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

In 2004 FAO Members, RFMOs and international NGOs were again requested to report on their activities for the implementation of the Code and its related instruments.³¹ Importantly, there were not major differences in the scope and nature of the IUU fishing problems being encountered between the two reporting periods. However, at the 2005 Session of COFI, in contrast to the previous Session, a significant number of recommendations were made by the Committee.³² In doing COFI:

- Repeated its request that flag States in fulfilling their responsibilities notify coastal States, as appropriate, and effectively control their vessels to ensure that they did not engage in IUU fishing or related activities. (para. 18)
- Recognized the importance of initiating work on the "genuine link" and requested FAO to participate in interagency activities towards this end. (para. 18)
- Endorsed the report of the 2003 FAO Expert Consultation on Fishing Vessels Operating under Open Registries and their Impact on Illegal, Unreported and Unregulated Fishing. (para. 20)
- Urged that Members operating open registries implement the Consultation's recommendations as a matter of priority. (para. 20)
- Urged interested Members to consider participating in the work of the International MCS Network in galvanizing action against IUU fishing. (para. 22)
- Expressed satisfaction with the outcome of the 2004 FAO Technical Consultation to Review Progress and Promote the Full Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity. (para. 23)

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

³⁰ This deadline was June 2004, three years after the adoption of the IPOA-IUU by the FAO Council. According to information available to FAO, less than 20 countries met the deadline for the elaboration of their NPOAs-IUU.

³¹ See FAO Committee on Fisheries document COFI/2005/2. Progress in the Implementation of the Code of Conduct for Responsible Fisheries and related International Plans of Action. Rome, FAO. 15p.

³² See FAO. 2005. Report of the Twenty-sixth of the Committee on Fisheries. FAO Fisheries Report No. 789. Rome, FAO. 88p.

- Endorsed the report of the 2004 FAO Technical Consultation to Review Progress and Promote the Full Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity as well as its main recommendations and suggestions. (para. 23)
- Agreed that subsidies that supported the expansion of fleets which, when conducted in an unsustainable manner, contributed to stock degradation, fleet overcapacity and IUU fishing, should be phased out. (para. 24)
- Acknowledged that there was a need to strengthen port State measures as a means of combating IUU fishing in a more substantive manner given that the lack of agreed, binding measures provided a loophole. (para. 25)
- Agreed that follow-up work on the 2004 FAO Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing should be undertaken, especially with respect to operationalizing the model scheme agreed at the Consultation. (para. 25).

A further report to COFI by FAO as part of its monitoring responsibilities for the Code of Conduct and its related instruments will be made at its 2007 Session.

CAPACITY BUILDING AND INSTITUTIONAL STRENGTHENING TO COMBAT IUU FISHING

The serious effects of IUU fishing on responsible fisheries prompted countries, in adopting the 1999 Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries, to take action to elaborate an IPOA–IUU to deal effectively with such fishing. The elaboration and implementation of NPOAs–IUU, which give effect at the national and regional levels to the IPOA–IUU, presupposes that countries have the technical and financial means to do so. The IPOA–IUU recognizes³³ the special requirements of developing countries, in particular the least development among them and small-island developing States, in terms of the financial, technical and other assistance needed to meet their commitments under the IPOA–IUU and other obligations under international law.

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

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

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

- review and revision of national legislation;
- improvement and harmonization of fisheries and related data collection;
- strengthening of regional institutions; and

³³ Part V of the IPOA–IUU.

- strengthening and enhancing of integrated MCS systems, including VMS.

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

- implemented a programme of assistance for developing countries to review and revise national fisheries and related legislation. Since 1995 this programme has also focussed on incorporating, as appropriate, the principles and requirements of post-UNCED fishery instruments into relevant fisheries laws.
- assisted developing countries upgrade their data collection, processing, reporting and harmonization capabilities.³⁴ Technical assistance at national and regional levels is a significant component of FAO's Programme of Work and Budget involving both normative and field programme activities. Outputs of normative activities include technical documents on statistical methodology and guidelines for data collection. Field programme activities involve project formulation and implementation, technical backstopping and organization of training courses and workshops. FAO is also involved in the promotion of cost-effective and sustainable approaches and techniques for the collection of fishery statistical data.
- encouraged RFMOs to enhance their capacities to better fulfil their mandates and to this end has taken steps to encourage dialogue and collaboration between them. Where fisheries organizations do not have mandates to manage fish stocks, FAO fosters cooperation among their members with a view to stimulating and strengthening bilateral and regional fisheries activities; and
- promoted the implementation of MCS and VMS systems in countries through policy and practical training. Capacity building in this area stresses the central role of MCS in fisheries management and the different VMS systems that might be deployed. In some sub-regions agreement has been reached on the compatibility of national MCS and VMS systems. Such compatibility also requires that there be harmonized fisheries legislation and strengthened international cooperation through the exchange of real-time and other information.

The IPOA–IUU further calls on FAO to:

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

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

- translation and wide dissemination of the IPOA–IUU;
- preparation, translation and wide distribution of comprehensive technical guidelines to support the implementation of the IPOA–IUU;

³⁴ Collection of basic data on catches, fishing effort and prices provide important indicators for a wide variety of fisheries applications. In addition, more detailed data (fishing vessels, gear and operations; socio-economic data; etc.) from regularly conducted fishery surveys are an important source of fishery information of wide utility and scope.

- preparation, translation and distribution of a simple language publication entitled “Stopping IUU Fishing”;³⁵
- cooperation with RFMOs in convening an Expert Consultation of Regional Fishery Bodies on Harmonization Certification;³⁶
- convening an Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing.³⁷ The documents from this Consultation will form the basis for follow-up in 2004 when an FAO Technical Consultation on Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing will be convened. It will address substantive issues relating to the role of the port State and, as appropriate, principles and guidelines for the establishment of regional memoranda of understanding on port State measures to prevent, deter and eliminate IUU fishing;
- convening an Expert Consultation on Fishing Vessels Operating under Open Registries and their Impact on Illegal, Unreported and Unregulated Fishing, in cooperation with the Government of the United States of America;³⁸
- mounting regional workshops to assist developing countries elaborate NPOAs; and
- assisting developing countries, on a request basis, to assess national situations with respect to IUU fishing and the development of proposed courses of action to address it.

Recognizing the linkage between IUU fishing and fishing fleet overcapacity, FAO convened a Technical Consultation in June 2004 to review progress with, and promote the full implementation of, the IPOA–IUU and the International Plan of Action for the Management of Fishing Capacity.³⁹ The major recommendations adopted by the Technical Consultation are in Appendix 3.

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

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

CONCLUSION

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

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

³⁵ This document is designed to sensitize fishers and fishing communities to the effects of IUU fishing. FAO, on a request basis, also prepares papers for a general readership together with and inputs for FAO and non-FAO training courses concerning IUU fishing and how problems flowing from such fishing might be addressed through the implementation of the IPOA–IUU.

³⁶ This meeting was held in La Jolla, USA in January 2002.

³⁷ Held at FAO Headquarters, Rome, Italy from 4 to 6 November 2002. The IMO participated in this Consultation. FAO also maintains a dialogue with IMO on a broad range of fisheries-related matters.

³⁸ The objectives of the Consultation, convened in Miami, USA, in September 2003 were (i) to raise awareness among flag States of IUU fishing problems associated with the operation of open registries for fishing vessels and (ii) identify modalities through which flag States can give effect to measures to prevent, deter and eliminate IUU fishing.

³⁹ See FAO. Report of the Technical Consultation to Review Progress and Promote the Full Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity. FAO Fisheries Report No. 753. Rome, FAO. 43p.

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

IUU fishing is not a new phenomenon. It has plagued fisheries management and deprived resources owners of revenue for decades. However, the incidence of IUU fishing is increasing as more fish stocks decline and tighter fisheries management arrangements are introduced. These trends are unlikely to change in the near future. This means that IUU fishing will continue at levels that undermine efforts to implement responsible and sustainable fisheries practices. Vigilance and closer international cooperation is needed at all levels if IUU fishing is to be prevented, deterred and eliminated as foreseen in the IPOA–IUU.

PROGRESS REPORT ON THE IMPLEMENTATION OF THE INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING

“71. It was recalled that the Council at its Hundred and Twenty-fourth Session agreed that illegal, unreported and unregulated (IUU) fishing be included in the Agenda of the Conference in order to underscore the importance of this issue for decision-makers both within and outside the fisheries sector.

72. Members reiterated that the continuing high and growing incidence of IUU fishing and the lack of effective implementation of the International Plan of Action (IPOA) on Illegal, Unreported and Unregulated Fishing (IPOA–IUU) had far-reaching adverse consequences for the sustainable management of fishery resources and the livelihoods of small-scale fishers. This situation was aggravated by, *inter alia*, the use of vessels flying “flags of convenience”, fishing overcapacity, and lack of political will and/or resources for addressing IUU fishing problems effectively. In some instances, States had shown a lack of commitment to meet their obligations under international law.

73. Many Members reported on measures being taken to combat IUU fishing, including better port State and flag State control, recognition of the principle of “genuine link” in relation to the duty of States to exercise effective control over ships flying their flags, enhanced monitoring, control and surveillance and vessel monitoring systems, strengthening of regional fisheries management organizations, and improved legal frameworks and institutional arrangements.

74. The Conference acknowledged that responsibility for combating IUU fishing rested primarily with States but that this would be greatly facilitated by strengthening regional fisheries management organizations and collaboration among States, as well as by the acceptance of the 1993 FAO Compliance Agreement by States. In this regard, Members highlighted the need for capacity- and institution-building in developing countries for the elaboration and implementation of National Plans of Action on IUU Fishing. FAO was commended for its work in combating IUU fishing and was urged to continue to assist in promoting the implementation of the IPOA–IUU, particularly in developing countries. Some Members welcomed the designation of FAO as the implementing office for the Assistance Fund under Part VII of the 1995 UN Fish Stocks Agreement established within the UN System to support Developing States Parties in their efforts to implement the Agreement.

75. Members expressed their interest to participate in the June 2004 Technical Consultations to review progress and promote full implementation of the IPOA–IUU and the IPOA–Capacity. Members also stressed the importance of examining issues related to subsidies in the fisheries sector. Noting the adverse trends in world fisheries and their multiple negative impacts on livelihoods and food security, the Conference agreed that there was urgent need to stimulate further action towards full implementation of the Code of Conduct for Responsible Fisheries and other relevant international instruments. Members requested the Director-General to convene a high-level meeting, preferably at the Ministerial level, to address these concerns.

76. The Conference adopted the following Resolution:

RESOLUTION 6/2003

Progress Report on Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing

THE CONFERENCE,

Noting the continuing high and growing incidence of illegal, unreported and unregulated (IUU) fishing and related activities and the lack of political will and capacity by some Governments to deal effectively with such fishing;

Noting the lack of commitment by some States to meet their obligations under international law;

Noting further that IUU fishing seriously undermined national, regional and international efforts to achieve long-term sustainability in fisheries;

Recalling the adoption on 11 March 1999 of the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries at the FAO Ministerial Meeting on Fisheries wherein it was agreed, *inter alia*, that States would develop a global plan of action to deal effectively with all forms of IUU fishing including fishing vessels flying "flags of convenience";

Noting further the increasing incidence of vessels flying "flags of convenience" and the inability or lack of will on the part of some countries to apply any controls over the vessels they flag;

Recalling the endorsement of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) by the Hundred and Twentieth Session of the FAO Council on 23 June 2001 wherein States were encouraged to develop and implement, as soon as possible but not later than three years after the adoption of the International Plan of Action, national plans of action to further achieve its objectives and to give full effect to its provisions as an integral part of their fisheries management programmes and budgets;

Recalling the Johannesburg Plan of Implementation adopted on 4 September 2002 by the World Summit on Sustainable Development wherein States were urged to implement the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing through national and, where appropriate, regional plans of action by 2004;

Recalling the relevant provisions of Resolutions (A/58/L.18 and A/58/L.19) on Oceans and the Law of the Sea adopted by the United Nations General Assembly on 24 November 2003:

1. **Urges**, as a matter of priority and urgency, States that have not done so to accept, accede to, or ratify, as appropriate, the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement and to implement and give full effect to the 1995 FAO Code of Conduct for Responsible Fisheries and the international plans of action and fisheries management guidelines developed in the framework of the Code of Conduct for Responsible Fisheries;
2. **Calls upon** States to ensure that they exercise full and effective control over fishing vessels flying their flags, in accordance with international law, to combat IUU fishing and to implement the IPOA–IUU;
3. **Encourages** States, and as appropriate, Regional Fisheries Management Organizations (RFMOs), to develop and implement National, and as appropriate, Regional Plans of Action to combat IUU fishing as soon as possible, but no later than 2004;
4. **Urges** States, to the greatest extent possible, to take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing;
5. **Requests** port States to take measures, in accordance with international law, to combat IUU fishing and as a means of implementing the IPOA–IUU;

6. **Urges** that States take all steps necessary, consistent with international law, to prevent fish caught by vessels identified by relevant RFMOs to have been engaged in IUU fishing being traded or imported into their territories;
7. **Calls upon** States to ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant RFMOs;
8. **Encourages** States to participate actively in the inter-governmental Technical Consultations to review progress towards full implementation of the IPOA–IUU and the IPOA–Capacity to be organised by the FAO in June 2004;
9. **Encourages** the full participation of stakeholders in combating IUU fishing, including industry, fishing communities, and non-governmental organizations;
10. **Invites** relevant competent international organizations to study, examine and clarify the role of the “genuine link” in relation to the duty of flag States to exercise effective control over ships flying their flag, including fishing vessels;
11. **Encourages** States, the FAO, the International Maritime Organization (IMO), RFMOs and other relevant competent international organizations dealing with maritime issues to cooperate in the development of measures to combat IUU fishing, including through the sharing of information, and
12. **Encourages** States, on their own initiative, or with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, to 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–IUU 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 of the IPOA–IUU.”

**THE 2005 ROME DECLARATION ON
ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

**Adopted by the
FAO Ministerial Meeting on Fisheries
Rome, 12 March 2005**

We, the Ministers and Ministers' representatives, meeting in Rome at the FAO Ministerial Meeting on Fisheries on 12 March 2005,

Bearing in mind the principles and rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea,

Noting with satisfaction the entry into force on 11 December 2001 of the United Nations Fish Stocks Agreement and the entry into force on 24 April 2003 of the FAO Compliance Agreement,

Recalling the relevant provisions of other international instruments, such as the 1992 Rio Declaration on Environment and Development and Chapter 17 of Agenda 21; the 2000 United Nations Millennium Declaration and Millennium Development Goals; and the 2002 Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation,

Reaffirming our commitment to the principles and standards contained in the FAO Code of Conduct for Responsible Fisheries,

Recalling the adoption on 11 March 1999 of the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries at the FAO Ministerial Meeting on Fisheries, as well as the endorsement of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU),

Recalling as well the resolution on IUU fishing adopted by the FAO Conference in 2003,

Desiring to move from words to action through full implementation of various international instruments for sustainable fisheries adopted or enacted in the past decades,

Noting the harmful and worldwide consequences of IUU fishing on the sustainability of fisheries (ranging from large-scale high seas fisheries to small-scale artisanal fisheries), on the conservation of marine living resources and marine biodiversity as a whole and on the economies of developing countries and their efforts to develop sustainable fisheries management,

Recognizing that there is often a relationship between fleet overcapacity and IUU fishing and acknowledging the economic incentives that drive these phenomena,

Acknowledging the genuine development aspirations and legitimate efforts of developing countries, in particular small island developing States, toward the sustainable management and development of their fisheries sectors,

Emphasizing the responsibility of flag States under international law to effectively control and manage vessels flying their flags, as well as the responsibilities of port and coastal States in controlling IUU fishing,

Aware that effective fisheries monitoring, control and surveillance (MCS) is essential to combat IUU fishing and that integrated MCS, including satellite monitoring systems (VMS), as well as a comprehensive global record of fishing vessels within FAO, are key tools in this endeavour,

Recognizing the need to strengthen international cooperation for the development of VMS so as to implement the Code of Conduct for Responsible Fisheries, prevent, deter and eliminate IUU fishing

and protect and assist fishermen in danger and the assistance that FAO may provide in harmonizing VMS to members who request it,

Recognizing the special requirements of developing countries in combating IUU fishing and, in particular, the need to strengthen their capacity for fisheries management, and

Reaffirming the commitment to enhance responsible and effective fisheries management, to prevent, deter and eliminate IUU fishing and to strengthen, improve, and where appropriate establish, MCS programmes including VMS,

We declare that:

1. We are committed to concentrating and intensifying our efforts to implement fully all the international instruments for the sustainable use of marine living resources.
2. We reaffirm the need for FAO to play a leading role in supporting the efforts of States to implement these instruments, with particular emphasis placed on assisting developing countries.
3. We will renew our efforts:
 - to develop and implement national and regional plans of action to combat IUU fishing,
 - to adopt, review and revise, as appropriate, relevant national legislation and regulations, in particular to ensure compliance with fisheries management measures and to provide sanctions of sufficient gravity as to deprive offenders of the benefits accruing from their illegal activities and to deter further IUU fishing,
 - to ensure effective implementation of catch certification schemes through their harmonization and improvement as necessary,
 - to adopt internationally agreed market-related measures in accordance with international law, including principles, rights, and obligations established in WTO agreements, as called for in the IPOA-IUU,
 - to ensure that all fisheries policy-makers and managers consider the full range of available MCS options, strategies and tools; take necessary actions to fully implement the IPOAs and any applicable MCS measures adopted by relevant regional fisheries management organizations (RFMOs); and that fishers have an understanding of their role in MCS,
 - to ensure that States, 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, and
 - to ensure that all large-scale fishing vessels operating on the high seas be required by their flag State to be fitted with VMS no later than December 2008, or earlier if so decided by their flag State or any relevant RFMO.
4. We call for the following new actions:
 - to identify, reduce and ultimately eliminate the economic incentives that lead to IUU fishing and the economic drivers that lead to fleet overcapacity, at the national, regional and global levels,
 - to ensure that measures to address IUU fishing or fleet overcapacity in one fishery or area do not result in the creation of fleet overcapacity in another fishery or area or otherwise undermine the sustainability of fish stocks in another fishery or area, and that such measures do not prejudice the legitimate expansion of fleets in developing countries in a sustainable manner,

- to develop a comprehensive global record of fishing vessels within FAO, including refrigerated transport vessels and supply vessels, that incorporates available information on beneficial ownership, subject to confidentiality requirements in accordance with national law,
- to work within RFMOs to facilitate, where appropriate, the exchange of VMS and observer data, subject to confidentiality requirements in accordance with national law, and
- to supplement existing MCS schemes through measures such as encouraging the fishing fleet to report any suspected IUU fishing activities they observe.

5. We agree upon the need:

- for flag States, port States, coastal States and, where appropriate, RFMOs to effectively regulate transshipment in order to combat IUU fishing activities and to prevent laundering of illegal catches,
- for States, as well as NGOs and members of the fishing industry, to exchange information on suspected IUU fishing, if possible on a real-time basis, in collaboration with FAO, RFMOs and other relevant arrangements, and by actively participating in the International MCS Network,
- to develop and ensure effective implementation of national and, where appropriate, internationally agreed boarding and inspection regimes consistent with international law,
- to strengthen coastal and port State measures for fishing vessels, consistent with international law, in order to prevent, deter, and eliminate IUU fishing,
- for further international action to eliminate IUU fishing by vessels flying “flags of convenience” as well as to require that a “genuine link” be established between States and fishing vessels flying their flags,
- to strengthen RFMOs to ensure that they are more effective in preventing, deterring and eliminating IUU fishing, and
- to fully implement vessel marking requirements in accordance with the FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels and any applicable RFMO requirements.

6. We urge all States:

- that have not yet done so to become parties to the 1982 United Nations Convention on the Law of the Sea, the 1993 FAO Compliance Agreement and the 1995 United Nations Fish Stocks Agreement, and abide by their provisions,
- to ensure that they exercise full and effective control over fishing vessels flying their flag, in accordance with international law, to combat IUU fishing,
- that are parties to the FAO Compliance Agreement to fulfil their obligations to submit to FAO, for inclusion in the High Seas Vessel Authorization Record, data on vessels entitled to fly their flags that are authorized to be used for fishing on the high seas, and those that are not yet parties to the FAO Compliance Agreement to submit such data on a voluntary basis, and
- to supply detailed information on fishing vessels flying their flag to relevant RFMOs, in accordance with the requirements adopted by those RFMOs, and to establish such requirements within RFMOs where they do not yet exist.

7. We further urge additional research, as well as enhanced international cooperation including appropriate transfer of technology, in remote sensing and satellite surveillance of fishing vessels to prevent, deter and eliminate IUU fishing, particularly in remote areas with lack of deployment of MCS facilities.

8. We also urge:

- the provision of additional assistance to developing countries to help them implement their commitments in preventing, deterring and eliminating IUU fishing, as well as to participate effectively in the development and implementation of fishery conservation and management measures by RFMOs, and
- the provision of advice and training to promote the development of fisheries management regimes, at the national and local levels, to prevent, deter and eliminate IUU fishing, including community-based fisheries management in countries where such fisheries management is practiced, recognizing, where appropriate, the role of local coastal communities in the management of near-shore resources, particularly in developing countries.

9. We resolve to provide financial and technical assistance to developing countries in the implementation of MCS capabilities, including VMS, with the support of FAO and relevant international financial institutions and mechanisms, and to consider the establishment of a special voluntary fund for this purpose.

WE REQUEST that the Director-General of the Food and Agriculture Organization of the United Nations convey this Declaration to the Secretary-General of the United Nations for consideration by that organization.

MAJOR RECOMMENDATIONS OF THE TECHNICAL CONSULTATION

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

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

publicized by RFMOs and to make information on IUU fishing available through the FAO Fisheries internet site.

9. To invite the FAO to integrate and analyze information and data regarding IUU fishing and fishing capacity from multiple sources, and to identify information and data gaps, in order to develop a global picture of IUU fishing and over-capacity.

10. To recommend that RFMOs consider invitation of third party expert auditors to review and provide recommendations and expert advice with respect both to the range of conservation and management measures adopted by the RFMO and to the effective implementation of these measures.

11. To encourage States to take all necessary steps to ensure that state agencies involved in the registration of fishing vessels and the authorisation of the importation and exportation of fish and fish products co-ordinate their activities with a view to identifying and closing gaps which may aid IUU fishing and the trade in fish harvested and fish products produced as a result of IUU fishing.

12. To invite COFI to make sure that the obligations in Article 48 of the IPOA-capacity and in Article 93 in the IPOA-IUU are fully complied with. To that end, it is necessary to assess the value of the national plans of action in relation to their effects on fisheries, to promote better fisheries practices and to ensure that the required reduction of fishing mortality on targeted fish stocks will be achieved in due time.

13. Request States to review the sanctions against IUU fishing available under their national laws in order to ensure that such sanctions function as a sufficient deterrent to IUU fishing wherever it occurs, taking account of all relevant information including available guidance for such review.

14. To recommend that RFMOs adopt effective measures to enhance compliance by contracting parties to RFMOs, pursuant to paragraph 84 of the IPOA-IUU.

15. In conformity with paragraph 25 of the IPOA-IUU, encourage all States and all interested stakeholders including industry, fishing communities and non-governmental organizations to implement the national plans of action as soon as possible, and to actively participate, with the full support of FAO, in the international network of cooperation and coordination of the monitoring, control and surveillance of fishing activities, in accordance with resolutions 28, 28.1 and 28.2 of the IPOA-IUU.

16. Invite State to collect, exchange and disclose to the extent possible under domestic law, information on the activities of international business entities such as trading companies undermining effectiveness of the IPOAs so that the concerned States and fishing entities can take appropriate cooperative actions to prevent such activities.

17. To encourage all States either directly through RFMOs through other regional and subregional organizations and in conformity with Section II of the IPOA-capacity, to implement the national plans of action as soon as possible taking due account of the special requirements of developing countries including those for small-scale fisheries.

Planning your actions

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WHY MAKE A PLAN?

Simple activities do not need planning because they usually involve only a simple and short activity of one person. If several things have to be done only by you perhaps you have the habit of making a list of “things to do”: for example, at the start of the weekend or early in the morning for the working day ahead of you. This list is a simple tool made in order to reach an objective: to have achieved several things by the end of the day or by the end of the weekend. But more complex activities that involve several tasks that need to be done in a proper sequence and/or by several people require a plan.

Plans are made for several reasons:

- To avoid wasting people’s time and money when things are not done in the proper sequence, at the proper time or when they do not contribute to the goals that have to be reached;
- Because the source of funding requires a plan explaining who will spend what part of the funds and on what activities;
- To make activities clearer and more transparent;
- To make sure that actions can continue when certain people leave;
- To realize up-front what alternative actions are in place when circumstances change; and
- To make sure that a certain goal or result is achieved between two points in time: the starting point and the moment you expect to be ready.

Planning is thinking matters through (or talking them through when more than one person is involved in making a plan) about what has to be done to achieve an objective.

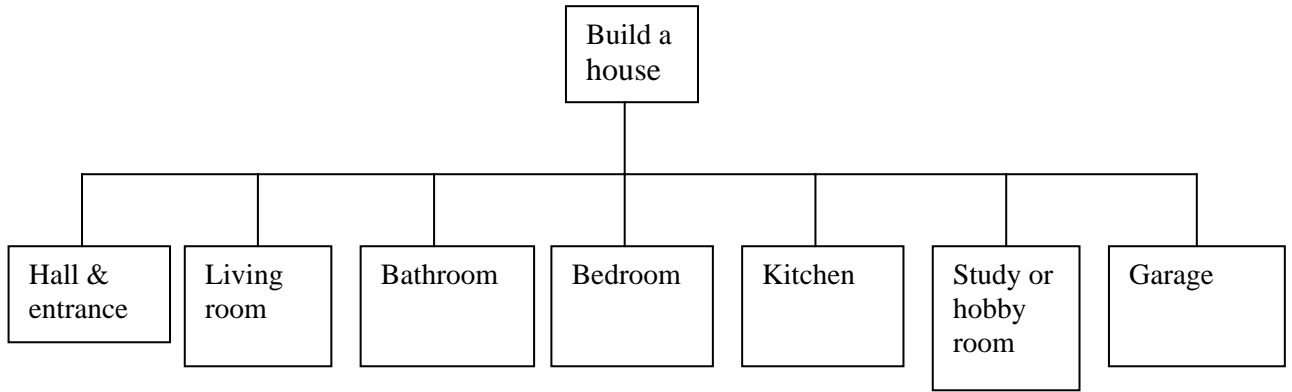
PLANNING = BREAKING UP COMPLEX PROJECTS OR ACTIVITIES⁴¹

In basic terms planning means breaking up a complex activity, project or task into smaller parts so that each part can be better managed and objectives more easily achieved. The question is: according to what criteria should the activity, project or task be broken apart? An example of a complex project could be the building of a house.

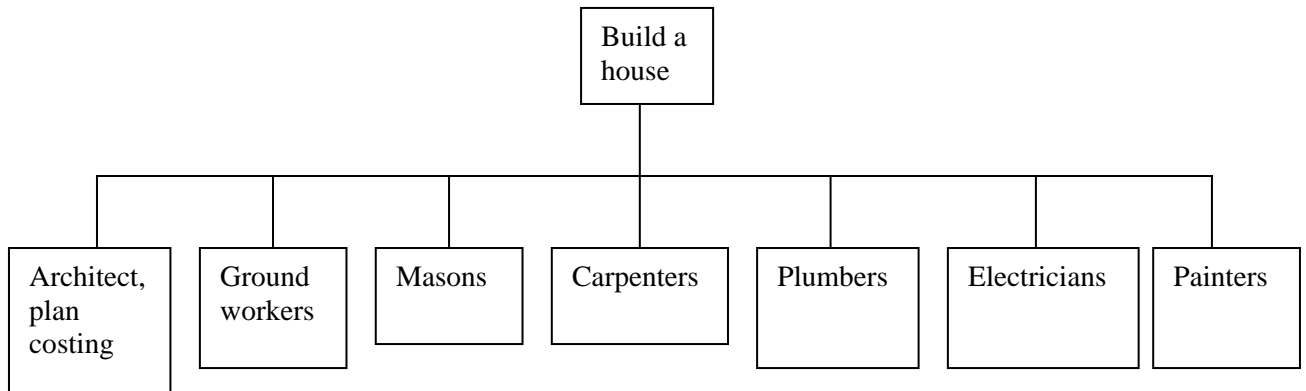
We can look at what has to be achieved, and make a break down according to its **contents** or **components**:

⁴⁰ International Agricultural Centre (IAC, Wageningen-UR), Department of Sustainable Management of Natural Resources, P.O. Box 88, 6700 AB Wageningen, The Netherlands. Tel. (+)-31-317-495349; Fax (+)-31-317-495395; E-mail: peter.vanderheijden@wur.nl Web site: <http://www.iac.wur.nl>

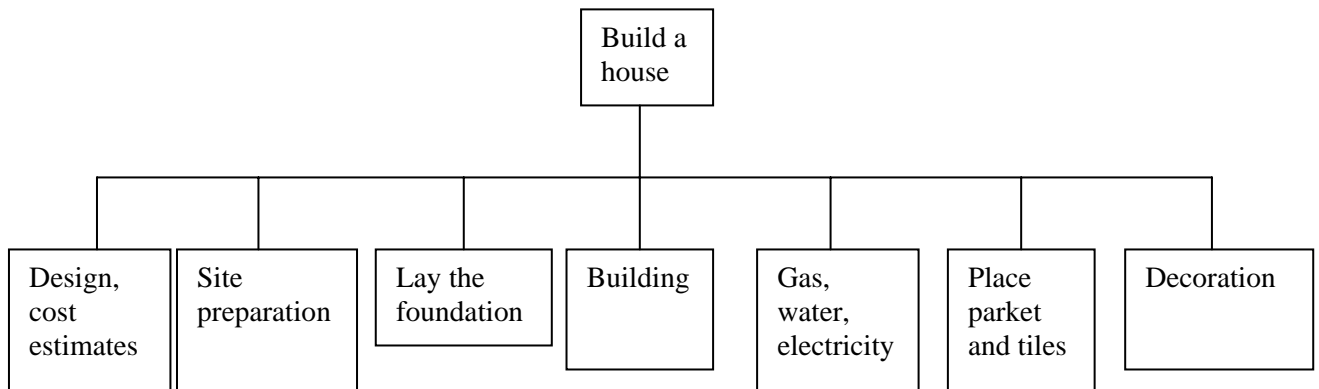
⁴¹ This section is derived from Van der Weide, A., A. Beulens & S. van Dijk (2003) Project planning and management. Lemma Publishers, Utrecht, the Netherlands, 212 pp.



The planning process can also focus on who has to do something, and a so-called **functional** break-down will result:



A third option is to break down the **process** of building the house, focusing on a sequence of events:



Most of the plans we deal with in our lines of work (e.g., sector development, management of natural resources and their exploitation, etc) involve a break-down of activities (actions) that requires breaking down the **process**, although the other two types of planning mentioned above may also play a role.

After the break up of the complex activity or project into smaller parts, it is necessary to estimate the duration of each part, the input and effort needed to realize each part (e.g., man-days, equipment and material needed) and its costs.

MAKING AN ACTION PLAN

One of the tasks during this regional workshop on IUU fishing is making (the outline of) a national plan of action to combat IUU fishing. In other words: a so-called action plan.

In its simplest form an action plan is a table with four columns.

In the first column the activities are listed; in the second column information on who will undertake the activity is provided; in the third column the timeframe is provided (i.e., when is the activity to be undertaken), and in the last column the resources (e.g., funds, equipment, other people, etc) that will be needed to carry out the identified activities.

Action	Who	When	Resources
1.			
2.			
3.			
4.			
5.			
6.			

Drawing up a table like this on a big sheet of paper, sticking it on the wall and then sitting down in front of it with the group of people involved in making the plan can be a good start for developing an action plan.

The paper on the wall forces people to think and speak about the four important components of a plan. The discussion should not only be about what activities (or actions) should be undertaken but also the priority of the selected actions can be discussed and established. In this way it is possible to rank the various actions according to their importance or urgency (e.g., what should be done first, what next, etc). Thus the priority of the actions for the plan can be easily established. The number assigned to each of the actions will indicate the priority level assigned to it.

But in many cases a more elaborate process is required to determine:

- what activities will be included on the list; and
- how progress with the implementation of the plan is to be monitored.

SELECTION OF ACTIONS

Selection of the actions to be placed in the first column is most often based on the problems being encountered, limitations and issues that are to be addressed in the present situation. This means that the conditions of the present situation must be known, perhaps even assessed (or studied) in more detail and described.

Often existing documents and the experiences of people working in the field provide a good starting point for a first assessment of the problems and issues that are in need of action. Personnel in a government department or agency working in the particular field have much knowledge and views about a problem but it is only *one* type of knowledge and *their* view.

Other stakeholders will probably have their own type of knowledge and may have a different perception of what the important problems and issues are. Furthermore, different stakeholder groups are likely to have different perceptions on the problem and issue to be addressed. They are also likely

to have different views on the causes of these problems and issues and consequently on the possible solutions.

For example: people in the section of the Fisheries Department working on MCS may have a somewhat different list of main problems and issues with regard to MCS in the EEZ area than people in the Legal Department or the captains working for the Coast Guard or the Marine. Because of the different types of knowledge, experiences, views and interests it is in most cases a good idea to involve all major stakeholder groups before making a policy or before making the “final” list of actions appearing in the action plan. Involving all or most parties and individuals that will play a role in executing the action plan in the design of the plan will also foster a feeling of ownership – (i.e., “their” plan). This broad involvement enhances the sense of ownership. This may mean a more elaborate and time-consuming planning process but it is likely to result in greater commitment and more sustained contributions of the partners in the long term.

There is another aspect to consider: the initiative to involve other groups, departments and individuals in designing the action plan is laudable but we should be aware that potential partner organizations have their own way of planning, their own procedures and culture that should be respected. They may already have made their own plan that they are trying to, or must, implement.

Under these circumstances a number of important issues should be addressed in widening participation in the planning process. These include, for example:

- How to fit in new activities in the process?
- Are these proposed new activities perceived as useful, complementing or fitting in well with what is already being done?
- Are the proposed activities within the mandate?
- Does it mean an extra workload for people who are to already overloaded?

A possible reaction could be: “Don’t they know we have already more than enough to do?” The person responsible for involving the various parties in the design and implementation of the action plan should be sensitive and diplomatic in such cases. Combating IUU fishing may not yet rank high on the agenda of potentially important partners in the process of drafting and implementing a national plan of action and we should start by exploring where the activities of likely partners touch upon, overlap or are hampered by IUU fishing. This will be the point for starting the discussions on the action plan. Sharing of information about the origin and consequences of this problem may be the first and necessary step to make people aware and willing to become involved.

We can expect the most enthusiastic cooperation from those most affected by this problem. Keep in mind that involving groups, institutes and individuals in a national plan of action may be perceived as a top-down approach. The person responsible for the design of the action plan may have to connect the problems and issues that these groups, institutes and individuals are already working on (or suffering from) with the possible of likely elements of the plan to make the design process and the execution of the national action plan to a success.

TERMINOLOGY

At this point it may be good to look more closely at terminology. So far in this paper both “action” and “activity” have been used synonymously. However, different countries and departments may use other planning terms. Those participants familiar with the logical framework for planning (Log Frame) or with the “objective oriented program planning” (OOPP or ZOPP) will be accustomed to words like objectives, indicators, etc. Others participants may use other terms. The following table lists words with similar, or almost similar, meanings:⁴²

⁴² MDF Training & Consultancy (2005) Course on Project Management (PM). Ede, the Netherlands.

TERM	SYNONYM
Overall objective	Goal, Development objective, Long-term objective
Project purpose	Short-term objective, Specific objective
Results	Outputs, Immediate objectives
Activities	Actions
Assumptions	Risks, Development hypothesis
Sources of verification	Means of verification, Means of assessment, Sources of information

When trying to engage other groups or organizations in the planning process it could be wise to use the same terminology they are already using in their own planning processes. Such terminology would be found in the planning documents already produced or from informal discussions with representatives of these organizations and groups.

WHEN?

When completing the third column “when”, if the information becomes too elaborate or extensive to fit into the column, we can make a separate table that highlights the time aspect: a so-called **time plan**. In such a plan the time when certain activities should be undertaken or completed are indicated:

Example of a time plan:

Activity	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
1.												
2.												
3.												
4.												
5.												

With a dark line or with crosses under the appropriate month, the time when an activity will take place is indicated. By dividing each month into four separate columns (i.e., weeks), the time plan can be given greater detail and accuracy because it can be indicated whether an activity is to take place in the first, second, third or fourth week of each month.

WHO?

A plan that focuses on who should undertake certain tasks or activities is called a “**responsibility chart**”. In such a chart it is immediately clear how the tasks and activities will be divided or allocated.

Example responsibility chart:

Activity	Legal Dept	Fisheries Dept – MCS unit	Coast Guard	Vessel owners association	Etc
1.					
2.					
3.					
4.					

MONITORING: A MATTER OF INDICATORS AND MILE STONES

The captain on a ship regularly looks on a map or screen to see where he came from and to determine if he is on the right course towards his destination. While implementing or executing a plan it is necessary to see whether you are making progress and whether you are still on the right track towards reaching your goal.

One way of doing this is to sit down regularly with all people involved in the implementation of the plan (or with representatives of the involved agencies and groups) to:

- take stock of what has been done;
- assess how successful progress has been;
- determine what can be learned from the experience to date; and
- evaluate what remains to be done, possibly in an adjusted way.

But how do we measure success and progress? What considerations will we take into account when we ask ourselves the question whether we are on the right course or how successful are we doing?

While preparing the plan it is a good idea to think and discuss how the plan's progress can and shall be monitored. This matter requires that we think of appropriate and realistic indicators: i.e., parameters that change as a result of our actions as we implement the plan. Some examples of indicators include the:

- average number of ships seen to be fishing illegally in the EEZ during a surveillance trip;
- number of landings of fish whose origin cannot be certified as coming from legal fishing; and
- number of illegal fishing vessels spotted and reported by the skippers of the national fishing fleet.

Another way of monitoring progress with the implementation of the plan is the specification of important events or stages that will be reached during the implementation process. Examples of such, so-called milestones, include:

- the adoption of a relevant legislation;
- an important decision being made by the Cabinet;
- an important convention being held;
- a Code of Conduct being accepted by the fleet; and
- a new surveillance vessel or plane becoming operational.

UPDATING OR REVISING THE PLAN

We probably know that "Every plan is wrong, when we look at it from hindsight". This is because a plan specifies what will be done in the future (i.e., future action). However, we live in a dynamic and changing world. Conditions and the situation around us changes, and some elements or aspects of the plan that was made some time ago may lose its urgency or relevance and new problems and issues may crop up. Therefore, plans should be looked at critically from time to time to see if changes are needed. Moreover, an assessment of the progress being made with the execution of the plan (i.e., during its evaluation) may lead to the conclusion that changes in the plan are required. During the implementation process all parties should be getting wiser and are learning – this is part of living and working in a dynamic planning environment.

We should remember that plans are simply tools to make our work more effective and are not designed to "straight jacket" our activities; plans should not limit or restrain us and our work.

If an adjustment or revision to the plan results in a more effective or more up-to-date tool, then these changes should be made as a means of making the tool more effective. This is especially the case

for more complicated plans that are designed and implemented by several parties or institutes. Under these circumstances it is wise during the drafting process to indicate the conditions that may allow for the introduction of change to the plan, including the procedures to be followed when changes and adjustments are being made. We should also address other questions such as:

- Under what conditions can or should a plan be changed or revised?
- Who can or should initiate the process leading towards the change and revision?

MORE INFORMATION ON PLANNING

There are many tools available that can help in the planning process, especially when it has to be done in a participatory (or inclusive) manner. There are manuals and guidelines for managers that deal with planning, monitoring and evaluation. Some of these manuals explain in detail how a certain problem or situation can be analyzed, and how, based on this analysis, a planning process resulting in a logical framework matrix, focusing on specific objectives, activities, indicators and assumptions, could be undertaken. This is the so-called “objective oriented project planning”. The following Web sites⁴³ will be very useful for those of you who want to study these subjects further. The tools and techniques for especially participatory processes are explained and the websites have often links to relevant books, reports and other websites dealing with planning, monitoring and evaluation.

⁴³ <http://www.iac.wur.nl/ppme/index.php>
<http://www.doc.govt.nz/Community/Sponsorship-and-Partnerships/Guidelines-for-community-conservation-partnerships/Tool-kit-for-community-projects/007~Group-planning.asp>
<http://www.toolkitparticipation.com/>
<http://www.worldbank.org/wbi/sourcebook/sbhome.htm> or <http://www.worldbank.org/wbi/sourcebook/sba102.htm>
<http://www.fao.org/participation/default.htm>
www.capacity.org

**National plan of action case study: a continental State,
Galactia fisheries profile**

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1. GALACTIAN FISHING INDUSTRY

The fishing industry in Galactia, a developing coastal State bordering the Atlantic Ocean, is based on resources from the marine and, to a lesser extent, inland sector. The main sources of inland fisheries – entirely traditional or artisanal – are the Great Vegan Lake, reservoirs, fish ponds and coastal lagoons. Around 15 000 small fishing boats operate on the Great Vegan Lake, most of them without engines.

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

- artisanal fishing, using canoes (about 9,000 canoes, of which 55 percent are motorized);
- semi-industrial⁴⁴ coastal fishing, using locally manufactured motorized wooden boats (150 craft);
- trawling, using imported steel vessels more than 35 metres long (60 trawlers); and
- tuna fishing, by pole and line and purse seine vessels, including foreign operated boats (33 vessels).

1.1 Trawlers and tuna vessels

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

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

1.2 Tuna processing and production

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

Tuna processing and preparation of fishmeal from tuna discards are the only industrial processing activities carried out in Galactia. The Pacifica Food Cannery and Atlantica Food Cannery process tuna mainly for the export market. However, continuous supply of tuna is a problem, so overseas partners

⁴⁴ Semi-industrial is defined in the Galactian 2002 Fisheries Act as a motor fishing vessel powered by an inboard engine, and excludes artisanal fishing vessels (traditional canoe fishing by a citizen) and industrial fishing vessels (motor fishing vessel equipped with hydraulic equipment and using industrial gears).

able to bring in or equip fishing boats are being sought. Mr. Ishmael Epanifo, Minister of State in charge of Fisheries, announced that Government would bring in some fishing vessels to enable Galactians to produce fish locally, as in the past few years the concentration had been on the importation of fish. A major goal is to raise tuna production from 70 000 to 100 000 metric tonnes annually.

1.3 Terme Harbour, port development

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

1.4 Export and investment policy, financial value of industry

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

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

1.5 Deepwater species depleted

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

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

1.6 Galactian nationals in fisheries sector

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

2. FISHERIES MANAGEMENT IN GALACTIA

The fisheries in Galactia are controlled by two management systems. One is a management system consistent with international management principles, based on free access but regulated by the State. It is principally directed at the activities relating to semi-industrial and industrial fishing vessels in the marine sector. The second is the traditional tenure systems based on community institutions and social practices at the local level. The strategy of Government is to focus on the semi-industrial and industrial fishing vessels in addressing IUU fishing.

2.1 The 2002 Fisheries Act

Fisheries management and development requirements, consistent with international principles, are embodied in the 2002 Fisheries Act. The Act was drafted in 1994, but not passed into law for some years because Parliament had other priorities. It therefore does not implement many of the provisions that were developed in the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement

and the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU). It applies only to activities in areas under Galactian jurisdiction, except for the enforcement action of hot pursuit outside such areas for an offence committed within Galactian jurisdiction.

2.1.1 The Fisheries Commission and Minister

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

2.1.2 License and registration requirements for fishing vessels

In keeping with the dual management systems, the Act has separate provisions in relation to local industrial and semi-industrial fishing vessels, foreign fishing vessels, artisanal fishing, aquaculture and recreational fishing vessels. Licenses are required for fishing in Galactian waters by foreign fishing vessels, local industrial and semi-industrial fishing vessels, canoes, artisanal fishing and recreational fishing. Licensed vessels are not allowed to land, tranship or discharge any fish outside Galactia. A licence is required for transshipment or export, and in any case fish have to be landed first in Galactia. The Fisheries Commission is required to keep a register of fishing licences. Licensed vessels are required to make appropriate reports of catches and related data, and maintain logbooks.

2.1.3 The Inshore Exclusion Zone

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

2.1.4 Galactia Monitoring, Control and Surveillance Unit

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

2.1.5 Penalties, fines, compounding process

Penalties and fines in the Act are very steep, but somewhat uneven. They are expressed in US dollars and in most cases there are maximum and minimum fines. Maximum fines generally apply to semi-industrial, industrial or foreign fishing vessels and can be as high as US\$2 million, for example in the case of unlicensed fishing by a foreign fishing vessel. However, unlicensed fishing by a Galactian industrial fishing vessel attracts a minimum fine of US\$1 000, with no maximum specified.

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

2.1.6 Evidentiary provisions

Evidentiary provisions allow for certificate evidence by an authorized officer regarding, *inter alia*, the position of a vessel as identified by position fixing instruments. The certificate can be used as sufficient evidence in the prosecution if there is no objection by the defendant. There is a general provision regarding “designated machines” where the Minister may designate a machine by notice in the *Gazette* and the readings from such machines are admissible as evidence under certain circumstances. This could apply to automatic location communicators (ALCs) in a vessel monitoring system (VMS), but there are no requirements regulating the installation and maintenance of ALCs for VMS generally.

2.1.7 Integrated Decision-making in Galactia

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

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

The arrangements that facilitate coordination include the Fisheries Commission, the National Committee for the Implementation of Agenda 21 and the Steering Committee of the Gulf of Galactia Large Marine Ecosystem (LME) Project. However, there has not been much progress on addressing issues relating to management of high seas fishing because the focus for the high seas is the LME.

3. DEVELOPMENT ASSISTANCE

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

4. INTERNATIONAL AND REGIONAL RELATIONS, TREATIES AND ORGANIZATIONS

Galactia has signed and ratified the 1982 United Nations Convention on the Law of the Sea (1982 UN Convention). It has not signed the 1995 UN Fish Stocks Agreement nor adhered to the 1993 FAO Compliance Agreement. However, the government plans to become party to the 1995 UN Fish Stocks Agreement and 1993 FAO Compliance Agreement to better carry out its obligations as a member of regional fisheries bodies.

Galactia is a member of the following regional fishery bodies:

- **The Convention for the Conservation of Tunas (CCT)** – The main objective of the CCT Convention is to maintain the populations of tuna and tuna-like species found in the Atlantic at levels which permit the maximum sustainable catch for food and other purposes. The Commission's functions *inter alia* include: (i) to study the populations of tuna and tuna-like fishes, (ii) to collect and analyse statistical information relating to the current conditions and trends of the tuna fishery resources of the Convention Area, and (iii) recommend studies and investigations to the Contracting Parties. The Commission's area of competence comprises all waters of the Atlantic Ocean, including Galactian waters. It has no regulatory powers, but makes regulatory recommendations to be implemented by Contracting Parties. CCT has recommended a number of measures on catch quotas, minimum weight of fish and limitation of incidental catches, as well as IUU fishing. The regulatory recommendations adopted by CCT are subject to an objection procedure. CCT has developed a catch documentation scheme whose primary objective is to track the international trade in certain tuna species. It requires that any exports to a member country of the relevant species must be accompanied by a statistical document, validated by the flag government of the vessel which caught the fish, which provides information on the vessel and the area in which the fish was caught. Members are required to provide the Commission with an annual report of the data collected, and these reports are sent to all members.

- **The Fishery Committee for the Eastern Central Atlantic (CECAF)** - CECAF was established under the Constitution of the United Nations Food and Agriculture Organization. It is an advisory body: it can make recommendations on fisheries management to its member countries, but these recommendations are not binding. In recent years, agenda items included emerging global fisheries issues, implementation of the 1995 FAO Code of Conduct in the region and the status and priorities for scientific research. At its last Session in October 2002, the Committee recommended that the Director General should keep under review the issue of a possible framework for the high seas. To this effect, it requested the Director General to convene a Legal and Technical Consultation to address the matter before the next Session of CECAF. There have been no activities relating to the assessment of IUU fishing, or catch certification and documentation. However, CECAF is sensitizing Members on the dangers of IUU fishing and consulting regional institutions on ways to strengthen MCS to curb illegal fishing.

REPUBLIC OF GALACTIA

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

This National Plan of Action (NPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing takes into account the framework suggested in the FAO Technical Guidelines to implement the IPOA-IUU, in particular sections 3.2 and 10.

The basic terminology used in the Guidelines defining “illegal, unreported and unregulated fishing” forms the basis for this NPOA. It is in Annex 1.

1. ALL STATE RESPONSIBILITIES

1.1 Review of national laws, regulations and practices relating to IUU fishing⁴⁵ Galactia will undertake a review of its national laws, regulations and practices relating to IUU fishing, with a view to implementing the IPOA-IUU in the most expedient manner possible. Where appropriate, the review will be done in connection with the development of fishery management plans in accordance with the Fisheries Act. The principal goal of the review is to rationalize and strengthen the legal regime and to make possible the use of all relevant tools in the IPOA-IUU “toolbox”.

1.1.1 Additional legislative or regulatory authority necessary or desirable to implement the IPOA The Fisheries Act, 2002 will be reviewed to consider whether to give the following areas legal status through laws, regulations or other instruments, or to take other measures.

1.1.1.1 State control over nationals:⁴⁶ Galactia does not currently prohibit nationals or vessels from supporting or engaging in IUU fishing beyond areas of national jurisdiction, as required by the IPOA-IUU. It is recognised that the term “national” is ambiguous, and could apply to persons and fishing vessels,⁴⁷ so Galactia will take measures in respect of both.

For Galactian fishing vessels, a review will be undertaken with the aim of adopting legal requirements (by appropriate instrument - law, regulation or other) to: require licences for vessels that fish on the high seas; make reports consistent with requirements of CCT and international obligations under the 1995 UN Fish Stocks Agreement; comply with boarding, inspection and observer requirements on the high seas; and prohibit the Galactian vessels that fish on the high seas from engaging in IUU fishing or undermining conservation and management measures of designated⁴⁸ regional fisheries management organizations or arrangements (RFMOs). The Fisheries Commission will be required to keep certain information relevant to high seas fishing vessels on a register, consistent with standards of RFMOs of which Galactia is a member. The register will, at a minimum, contain the data in section 2.2.1 of this NPOA.

Galactia does not have capacity to identify and prosecute stateless vessels that undermine international conservation and management measures on the high seas, so will not be seeking legal amendment to this effect. However, it will support the efforts of other member countries of CCT to this effect.⁴⁹

⁴⁵ For examples of legislation adopted by some countries relating to IUU fishing, see Edeson, W., Freestone, D. and Gudmundsdottir, E., “Legislating for Sustainable Fisheries” The World Bank, 2001.

⁴⁶ IPOA-IUU Paragraphs 18 and 19.

⁴⁷ For further explanation of the ambiguity, see Edeson, W. *et al*, note 1, p. 63-65.

⁴⁸ Note the official designation of RFMOs, for example by Notice in the *Gazette*, would provide the necessary certainty as to the high seas conservation and management measures that will be applicable to Galactian nationals. Such certainty in law is an essential component of criminal offences.

⁴⁹ The United States, for example, has declared that stateless vessels are subject to the jurisdiction of the United States, and has successfully exercised its authority under related legislation (the Magnuson-Stevens Act and the High Seas Fishing Compliance Act.)

For Galactian persons in areas beyond national jurisdiction, consideration will be given to a legal requirement prohibiting Galactian nationals from engaging in fishing activities that violate the fisheries laws of another State or that undermine the effectiveness of conservation and management measures adopted by designated RFMOs.⁵⁰

It is recognised that enforcement of such a legal prohibition could be difficult, especially if a foreign boat with no connection to Galactia is involved. Concerns include limited enforcement capacity and potential problems with double jeopardy, where action may be taken against the same person for the same offence by Galactia and the State where the fisheries laws were violated. It is currently estimated that few, if any, Galactians are employed on fishing vessels flying a non-Galactian flag.

1.1.1.2 Sanctions:⁵¹ Sanctions reviewed will include provisions in the 2002 Fisheries Act, other legislation and policy and economic-oriented measures including trade restrictions. The objective is to assess whether the sanctions are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and deprive the offenders of the benefits accruing from such fishing.

In the 2002 Fisheries Act the review will encompass the level of fine, the practice of compounding offences (accepting an administrative penalty) in accordance with the 2002 Fisheries Act, the seizure, sale and forfeiture of items used in the offence, terms of imprisonment and other relevant considerations. Special attention will be paid to the list of serious violations in Article 21(11) of the 1995 UN Fish Stocks Agreement, in order to ensure that Galactian penalties for such offences are at the appropriate level. Fines and penalties for IUU fishing beyond areas of national jurisdiction will be introduced, and fines for IUU fishing in the IEZ will be increased. In addition, the review will include the consistency of the level of fines for serious offences throughout the Act.

Inter alia, the level of fine for non-reporting or misreporting will be reviewed (including by reference to similar fines in the region) in order to better enforce against IUU fishing, including by use of catch certification schemes, and landing and transshipment documentation requirements.

The best legal mechanism for implementing trade sanctions, prohibition of port calls or landings or other relevant sanctions against IUU fishers and fishing vessels will also be reviewed.

1.1.1.3 Eliminating subsidies or other economic support to IUU fishers:⁵² Financial laws and practices, including tax exoneration, investment criteria and subsidies, will be reviewed with a view to ensuring that economic benefit or support is not provided to Galactian companies, vessels or persons involved in IUU fishing. In particular, if any IUU fisher is receiving benefits or tax exoneration connected with the development of Terme Port, this will be immediately reviewed and withheld if appropriate.

1.1.1.4 Evidentiary standards and admissibility:⁵³ The evidentiary provisions of the 2002 Fisheries Act are innovative in terms of permitting certificate evidence and contain modern provisions relating to burden of proof for fisheries offences. They are satisfactory for the introduction of evidence of some new technologies but require more extensive provisions that cover such areas as digital photography. There is also no special reference to the admissibility of evidence taken in such situations as high seas boarding and inspection by a non-national

⁵⁰ An example of this is the US Lacey Act which can be used in certain circumstances, for example where the fish or fish products are landed or brought to any place subject to US jurisdiction. The legislation is not directed specifically at US nationals, but makes it unlawful for any person subject to US jurisdiction to "import, export, transport, sell, receive, acquire, possess or purchase any fish...take, possessed or sold in violation of any foreign law, treaty or regulation." This has been used successfully to prosecute US nationals who engage in certain forms of IUU fishing

⁵¹ IPOA-IUU Paragraph 21.

⁵² IPOA-IUU Paragraph 23.

⁵³ IPOA-IUU Paragraph 17.

inspecting officer. A review of such provisions will be carried out, with a view to amending the 2002 Fisheries Act appropriately.

1.1.1.5 Monitoring, control and surveillance (MCS):⁵⁴ The 2002 Fisheries Act has extensive provisions for MCS, but they apply only to areas under national jurisdiction, except for hot pursuit. In addition, there are no provisions in relation to modern MCS technology such as Vessel Monitoring Systems (VMS). The Act will be reviewed, in view of Galactia's current and future international obligations, with the aim of introducing requirements including:

- installation and maintenance of automatic location communicators (ALCs) and compliance with any requirements of a VMS system consistent with international standards;
- boarding and inspection on the high seas consistent with international law, recognizing the rights and obligations of masters and of inspection officers;
- observer programmes with relevant national, regional or international standards, including for Galactian vessels on the high seas; and
- reporting requirements consistent with requirements in the international instruments for areas within and beyond national jurisdiction.

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

1.1.1.7 Strengthening control over landings and transshipments: Notification requirements for landings and transshipments will be reviewed to ensure adequate opportunity for inspection. The legal authority to prohibit landings and transshipments in a timely and effective manner will be reviewed.

1.1.1.8 Strengthening control over exports: The 2002 Fisheries Act requires that a permit be issued by the Minister for export of fish in commercial quantity, but there is currently no provision authorizing or requiring the Minister to deny an export permit in the event the fish were caught in an IUU fishery, nor creating an offence for an exporter to trade in such fish. An amendment will be prepared catering to these situations.

1.1.1.9 Implementation of obligations under RFMOs: Legislative authority to deter IUU fishing that undermines conservation and management measures adopted or recommended by any RFMO to which Galactia is party will be reviewed and amendments proposed. One amendment to the 2002 Fisheries Act that will be considered is a provision prohibiting any person from landing, importing, exporting, selling, buying, etc. any fish taken contrary to international conservation and management measures adopted a RFMO to which Galactia is party.⁵⁵ Sanctions would be severe, including high fines, and forfeiture as applicable.

In addition, cooperation with the catch certification schemes of CCT will be intensified to facilitate detection and the 2002 Fisheries Act will be reviewed to ensure the appropriate inspection and reporting requirements are sufficient, and the sanctions are deterrent.

A possible constraint in adopting and implementing the above amendments is the planned expansion of tuna landings in Terme Port. However, the current government supports the goal of sustainable fisheries coupled with a punitive fine.

⁵⁴ IPOA-IUU Paragraph 24.

⁵⁵ This is similar to the US "Lacey Act" provision, which has the objective of enforcing the laws of other States through such measures.

1.1.1.10 Implementation of International Law:⁵⁶ Galactia has implemented the 1982 UN Convention in its 2002 Fisheries Act to a satisfactory extent. Further action regarding implementation of the post-UNCED instruments is described under section 1.3.

1.1.2 Review of Practices relating to IUU fishing 1.1.2.1 State control over nationals:⁵⁷

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

Galactia will develop measures to discourage its nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities, including a review of the benefits they may receive from Galactia (such as landing rights) with a view to withholding such benefits. Initial efforts will be directed towards those vessels that are registered in Pluto.

1.1.2.2 Vessels without nationality:⁵⁸ Galactia currently lacks capacity to take active measures in relation to vessels without nationality that fish on the high seas, but will cooperate as appropriate with member countries of CCT, such as the United States, that has such legislation and capacity.

1.1.2.3 Non-cooperating States:⁵⁹ Galactia will cooperate with all RFMOs to which it belongs to prevent, deter and eliminate the activities of non-cooperating States which engage in IUU fishing. In particular, it will implement all relevant resolutions of CCT.

1.1.2.4 Economic Incentives:⁶⁰ Tax exonerations and other benefits given to attract additional partners for fishing will be withheld from companies, vessels and persons that are involved in IUU fishing.

1.1.2.5 Monitoring, Control and surveillance:⁶¹ The Galactian MCS Unit and fisheries database and licensing unit have been strengthened as part of the capacity-building project of the World Bank. Due to lack of capacity, there is no observer programme, but a small team of inspectors carry out intermittent port inspections. Until now, there has been no focus on IUU fishing in the annual operations of the MCS unit or the fisheries database. The Unit will seek assistance to develop a multi-year strategy that addresses IUU fishing, with the following priorities:

- improved enforcement of IUU fishing in the EEZ;
- improved enforcement of vessel and gear marking;
- improved training and capacity, including training for high seas boarding and inspection as appropriate;
- improved liaison with the fisheries database and licensing unit;
- developing an observer programme;
- improved inspection of port landings and transshipments;
- developing a VMS system, in step with amendments to the law regarding VMS and high seas fishing;
- improved liaison with RFMOs of which Galactia is member; and
- improved communication with other organizations and networks, such as FAO and the MCS Network.

⁵⁶ Paragraph 11.

⁵⁷ Paragraphs 18 and 19.

⁵⁸ Paragraph 20.

⁵⁹ Paragraph 22.

⁶⁰ Paragraph 23.

⁶¹ Paragraph 24.

A budget to implement the strategy will be drawn up and monies of the Fisheries Development Fund established under the 2002 Fisheries Act will be allocated by the Commission among the above priorities.

1.2 General measures needed to conform national laws, regulations and practices to international standards: General measures needed to conform national laws and regulations to international standards consist of the reviews and amendments described in Part 1.1.

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

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

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

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

1.7 Measures to improve monitoring, control and surveillance: Measures to improve monitoring, control and surveillance are described in sections 1.1.1.5 and 1.1.2.5 above.

2. FLAG STATE RESPONSIBILITIES

2.1 Measures to improve registration system for fishing vessels

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

2.1.2 Control of registered vessels: Galactia will take measures to ensure its ability to control vessels before granting registration. This will include the following.

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

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

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

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

2.1.4 Review of chartering arrangements: Although all vessels currently fishing fly the Galactian flag, measures will be taken to ensure Galactia can maintain control, in areas beyond national jurisdiction, of vessels fishing under joint ventures or chartering arrangements. Such measures will require transparent chartering arrangements to ensure clear, current and accurate information is provided, and legal provisions will be considered : (a) requiring that the chartered vessels take on the nationality of Galactia – that is, be registered in Galactia and fly its flag - for the duration of the charter arrangement or (b) requiring the charter arrangement to make both Galactia and the flag State responsible for controlling the high seas fishing conducted pursuant to a charter arrangement. The charter arrangement could, for example, provide express authority for both States to board and inspect the vessel on the high seas and require reporting of catch data to both States. The 2002 Fisheries Act, in which the “operator” of a vessel is liable for most offences, defines operator as the owner, charterer and master. This means that the charterer may be prosecuted if IUU fishing takes place.

2.2 Creation of a comprehensive record of fishing vessels

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

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

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

2.3 Measures requiring authorization to fish: The 2002 Fisheries Act requires industrial and semi-industrial vessels to have a licence to fish prior to engaging in fishing activities, and this will continue to be enforced.

2.4 Measures to control transport and support vessels: The 2002 Fisheries Act prohibits support canoes from operating in the IEZ, and measures will be reviewed to enforce this law. Galactia will enforce the requirement that at-sea transshipments and processing of fish require authorization from the flag State (including Galactian vessels that undertake processing at sea in the zone of a

neighbouring country). Galactia will adhere to CCT's rules that at-sea transshipments take place only between CCT members or between CCT members and cooperating non-parties.

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

3. COASTAL STATE MEASURES

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

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

4. PORT STATE MEASURES

4.1 Improvement of port State measures to combat IUU fishing

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

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

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

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

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

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

5. INTERNATIONALLY AGREED MARKET-RELATED MEASURES

5.1 Implementation of market-related measures adopted by RFMOs

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

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

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

5.2 Implementation of other market-related measures

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

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

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

6. IMPLEMENTATION OF IPOA–IUU THROUGH RFMOS

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

- institutional strengthening of RFMOs;
- additional compliance mechanisms to be adopted by RFMOs;
- better collection and exchange of information through RFMOs;
- strengthen monitoring, control and surveillance through RFMOs;
- development of comprehensive port State systems through RFMOs;
- improve documentation and certification schemes through RFMOs;
- regulate chartering arrangements through RFMOs;
- address non-member fishing through RFMOs; and
- formalize cooperation among RFMOs and between RFMOs and other international organizations.

7. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

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

BASIC TERMINOLOGY

ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Illegal fishing refers to fishing activities:

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

Unreported fishing refers to fishing activities:

- (1) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (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.

Unregulated fishing refers to fishing activities:

- (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
- (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.⁶²

⁶² The IPOA–IUU notes that “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 IPOA–IUU.

**Role playing/problem solving:
making responsible decisions about IUU fishing**

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

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

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

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

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

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

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

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

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

ACTION: To outline what each person might do to address the problem.

Composition of the Working Groups

WORKING GROUP 1

Leader: BRITES, Yolanda (Ms)
 Rapporteur: MANE, Mussa
 Members: BALDE, Djibril
 BORGES, Luísa (Ms)
 DA SILVA JÚNIOR, António Bandeira
 JUNIOR, Antonio Bandeira
 MIGUEL DO SACRAMENTO E SOUSA, Claudete (Ms)
 MILAM ÑENGONO, Pedro Luis Mitogo
 NDEMENSOGO ESONO NDONG, Don Bonifacio

WORKING GROUP 2

Leader MOHAMED SALEM, ould Mohamed Lemine
 Rapporteur: BONDJA, Monique (Ms)
 Members: BASUBI, Ishikitilo Alexandre
 DIENG, Alkaly
 GNITASSOUN, Dénagnon
 MAAROUF, Majida (Ms)
 MBOUP, Dame
 NGOUEMBÉ, Appolinaire

WORKING GROUP 3

Leader ATOBRAH, Papa Yaw
 Rapporteur: SENGHORE, Madani
 Members: ANYANWU, Augustina O. (Ms)
 DAMPHA, Nfamara Jerro
 EZENWA, Bernard I.
 GBONDO Winston Benedict
 KAY, Wisseh D.
 QUARTEY, Richmond
 SEILAY, Frederick J.

WORKING GROUP 4

Leader: KANDIL, Faouzi
 Rapporteur: DADI, Séríkpa Guillaume
 Members: AKPACHOSSOU, Victor
 ALLECHI, Yapo Ludovic
 BILLE, Isaac
 GAYO LEMBA, François
 KEBENZIKATO-TCHARIE, A. Banilé
 KONATE, Pascal Fadouba
 NDIAYE-DIOP, NDeye Tické (Ms)
 SEDZRO, Kossi Maxoe

Priority listing of problems by country for the region and proposed actions to combat these problems

Issue	Benin	Cameroon	Cape Verde	Congo	Congo, DR	Côte d'Ivoire	Equatorial Guinea	The Gambia	Ghana	Guinea	Guinea-Bissau	Liberia	Mauritania	Morocco	Nigeria	Sao Tome and Principe	Senegal	Sierra Leone	Togo	Average	Rank
Inadequate MCS	7	1	3	1	3	2	1	1	2	4	1	1	14	9	1	10	12	3	3	4.37	1
Fishing unauthorized species/undersized species	1	3	5	3	5	3	13	8	1	3	7	3	15	2	10	1	3	2	7	5	2
Use of unauthorized gears	3	0	10	0	6	6	14	6	0	8	4	9	13	3	2	7	2	4	9	5.58	3
Use of prohibited gears and fishing methods	8	7	11	9	2	6	0	5	7	2	4	2	11	12	9	2	1	9	8	6.05	4
Encroachment by foreign fishing vessels	10	4	2	14	7	4	12	2	3	7	0	1	6	10	12	9	7	6	4	6.31	5
Unauthorized fishing in closed areas/seasons	16	2	6	2	9	7	14	12	5	1	3	5	2	5	5	5	6	7	15	6.68	6
Inadequate legislation for IUU fishing/ MCS	4	6	17	12	1	1	11	4	8	11	15	1	4	13	0	6	8	5	2	6.79	7
Unreporting/misreporting of catches	9	9	1	13	4	10	2	16	9	6	5	1	6	4	3	3	4	15	10	6.84	8
Unauthorized fishing in management zones	2	0	7	5	13	7	0	10	4	9	10	2	9	1	14	11	14	1	6	7.10	9
Fishing by unregistered/unlicensed vessels	11	11	4	11	11	4	3	3	15	5	2	1	12	0	6	13	9	8	14	7.47	10
Illegal landings and transshipment	13	5	13	7	15	13	0	7	6	0	9	1	8	0	8	15	15	0	11	7.68	11
Trade in IUU caught fish	17	0	15	0	16	14	10	11	13		14	0	5	8	7	0	17	0	12	8.37	12
Lack of coordination/communications between agencies in national administrations	6	8	9	10	10	11	17	17	14	15	6	3	2	11	4	4	10	13	1	9	13
False technical vessel information	5	0	14	0	17	9	9	9	11	10	8	1	7	6	13	16	16	11	13	9.21	14
Fishing endangered species	14	0	8	6	8	5	7	13	17	12	13	18	10	0	16	8	4	10	17	9.79	15
Lack of subregional cooperation on IUU fishing issues	12	10	12	8	12	12	3	14	12	13	11	4	3	7	15	12	11	12	5	9.89	16
Use of unseaworthy vessels	15	0	16	4	14	8	8	15	10	14	12	18	8	0	17	14	13	14	16	10.47	17

ISSUE	ACTION
Inadequate MCS	<ul style="list-style-type: none"> To strengthen MCS To promote regional cooperation in MCS To involve stakeholders in participatory MCS To promote information sharing both nationally and regionally
Fishing unauthorized species/undersized species	<ul style="list-style-type: none"> To specify sizes for species and to publicize this information To prohibit the importation of gear such as nets that are smaller than the specified mesh sizes To prohibit the sale of nets with mesh sizes smaller than prescribed minimums To include substantial sanctions in law so as to act as a deterrent against this type of fishing To promote uniform penalties among countries in the subregion To promote the use of bycatch reduction devices
Use of prohibited gears and fishing methods	<ul style="list-style-type: none"> To improve port and at-sea vessel inspection To increase the level of sanctions To improve the capacity of observers To promote participatory MCS To institute regional patrols To confiscate and destroy prohibited gear irrespective of whether it is being used or not
Encroachment by foreign fishing vessels	<ul style="list-style-type: none"> To place observers on all national vessels To use incentives so as to encourage vessel operators to report infringements by other vessels To deploy aerial surveillance to identify IUU fishing vessels To harmonize sanctions in the subregion
Unauthorized fishing in closed areas/seasons	<ul style="list-style-type: none"> To introduce compulsory VMS To encourage participatory MCS among stakeholders To continue the use of conventional MCS methods To implement higher sanctions To disseminate information on closed areas and seasons To confiscate gear and cancel fishing licences for offending vessels
Inadequate legislation for IUU fishing/MCS	<ul style="list-style-type: none"> To strengthen subregional cooperation To establish MCS databases To review and revise legislation so as to ensure that it is kept abreast of international developments in fisheries
Unreporting/misreporting of catches	<ul style="list-style-type: none"> To strengthen fisheries legislation To increase the level of sanctions To place observers on all vessels so that they can file daily catch reports To deny licences to vessels that have failed to report in the required manner

This document contains the report of, and some of the papers presented at, the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion which was held at Accra, Ghana, from 28 November to 2 December 2005. The purpose of the Workshop was to assist countries in the West African Subregion to develop capacity to elaborate National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOAs–IUU). The Workshop addressed issues relating to the 1995 FAO Code of Conduct for Responsible Fisheries, the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) and FAO Fisheries Technical Guidelines No. 9 that have been developed to support the implementation of the IPOA–IUU; concepts of planning and the elaboration of action plans; decision-making about IUU fishing and skills enhancement through the identification of key issues relating to the elaboration of NPOAs–IUU, the primary vehicle by which the IPOA–IUU will be implemented by countries. Working groups were formed to encourage maximum participation in the Workshop. A review of the major IUU fishing problems in the region and their possible solutions were discussed. Funding for the Workshop was provided by the FAO Regular Programme with support from the FishCode Programme through component project GCP/INT/849/USA, “Support for Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing”.

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