

**REPORT OF THE FOOD AND AGRICULTURE ORGANIZATION CONCERNING UNITED NATIONS
GENERAL ASSEMBLY RESOLUTION A/58/L.19 ON OCEANS AND THE LAW OF THE SEA**

January 2004

In his letter of 30 December 2003 to the Director-General of FAO, the Under-Secretary-General for Legal Affairs, United Nations, sought, in accordance with various paragraphs of United Nations General Assembly Resolution A/58/L.19, input from FAO in matters relating to ocean affairs and the law of the sea. Information provided by FAO will form part of a comprehensive report to be considered by the Fifth Meeting of the United Nations Open-ended Informal Consultative Process which will be held at United Nations Headquarters in New York from 7 to 11 June 2004.

This report covers relevant FAO activities during the period January to December 2003.

In accordance with Un(s)-3.f(-12.ir -0.014 Tc0.0099.Tw(was 0356(Sa)ich)7.5(-0.2)04(06)4(d)h(e)F(u)nd.1(is)-4.1(s)-4.1(u) would constitute one means, among others, of assisting developing countries to participate in the implementation of the Agreement.

Subsequently, the Hundred and Twenty-fourth Session of the FAO Council in Rome in June 2003 agreed that the Director-General should enter into consultation with the UN Secretary-General to define practical modalities in implementing this Trust Fund.

At the Twenty-third Session of the FAO Conference in Rome in November/December 2003 the Secretariat pointed out that FAO, as part of its forward looking strategies to address illegal, unreported and unregulated (IUU) fishing, would continue to encourage States that have not done so to accept, accede or ratify, as appropriate, the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement and to give full

effect to the principles, intent and implementation of the 1995 FAO Code of Conduct for Responsible Fisheries. The FAO Conference noted that Members welcomed the designation of FAO as the implementing office for the Assistance Fund under Part VII of the 1995 UN Fish Stocks Agreement.

FAO is working to establish the Part VII Trust Fund with a view to having it operational prior to the Third Informal Meeting of the States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. This Meeting is expected to be held in New York in mid-2004.

1.2 1995 FAO Code of Conduct for Responsible Fisheries

The 1995 FAO Code of Conduct for Responsible Fisheries overarches FAO's fisheries work programme. All of FAO's normative and field activities in fisheries seek to promote the implementation of the Code of Conduct by building on and consolidating past work achievements and ensuring that current and programmed activities reflect the principles and intent of the Code.

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some of them had been responsible for the completion of the FAO Code questionnaire in 2002. The Workshop endorsed several national, regional and global follow-up actions.⁶

1.3 1993 FAO Compliance Agreement

The 1993 Compliance to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993 FAO Compliance Agreement) is an integral component of

- § excess fleet capacity and the 'pushing out' and re-flagging of vessels from managed fisheries as regulations tighten to other fisheries that are unmanaged or poorly managed;

A round table discussion following the presentations led to the adoption of a number of recommendations for more effective application of flag State control over fishing vessels, particularly those

During 2003 a new web page for the IPOA-IUU was developed. It is expected that it will be released in the early 2004.

1.5 1999 FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-seabirds)

not available. Diet information, also not available, will help define community structure and provide data for ecosystem models.

The Workshop further found that much additional information is required to identify unit stocks and define geographic and depth distributions and that the movement patterns of deepwater elasmobranchs is often unknown. These data and stock structure information are essential for determining the proportions of stocks exploited by fisheries and thus in developing appropriate management plans.

FAO provides technical assistance to Members on a request basis in relation to the IPOA-sharks. During 2003 only two Members sought such assistance. However, an FAO international workshop on the management of Galeorhinid sharks is planned for 2004.

During 2003 a new web page for the IPOA-sharks was developed. It is expected that it will be released in the early 2004.

1.7 1999 FAO International Plan of Action for the Management of Fishing Capacity (IPOA-capacity)

Management of Fishing Capacity

The management of fishing capacity is a main issue facing fisheries governance. It has increasingly been addressed over the last decade in a wide range of national and international fora.

Objective, reliable and credible information on the status and trends of capture fisheries is the foundation of policy development for fisheries, and of fisheries management actions. There are many legal instruments that require such information, including the 1982 UN Convention, the 1995 UN Fish Stocks Agreement, the Code of Conduct and the recently-adopted IPOAs.

For decades FAO has compiled information on the status and trends of fisheries and such reports have been received by COFI with great interest. Similar reports are prepared by some Members and by RFMOs for the fisheries under their jurisdictions. Information on the status and trends of fisheries has, in part, stimulated important initiatives to make fisheries more responsible. For example, concerns about clear signs of over-exploitation of important fish stocks prompted COFI to undertake preparation of the Code of Conduct. At the national and regional levels information on the status and trends of fisheries has also stimulated important initiatives to make fisheries more responsible.

In 1997 the First Session of FAO's Advisory Committee on Fisheries Research (ACFR) raised several concerns about the way fishery status and trends information is assembled and disseminated and the Committee recommended that improvements be made. Following endorsement of the ACFR Report by the Twenty-third Session of COFI in 1999, ACFR and

of the Strategy by facilitating the more systematic assembly of status and trends data and information from the national to the regional and global levels was noted. Many Members renewed their commitments to supply or make readily available information on their fisheries and to participate in the Strategy. Several Members noted their desire that FAO provide assistance on methodology and training. It was noted that in relation to inland fisheries in developing countries, a major effort would be required.

COFI recognized the need for additional funding requirements for implementation of the Strategy and endorsed the proposal to seek extra-budgetary funds from donors for projects implementing the Strategy

One of important aspects of FAO's fisheries capacity-building work is the facilitation of cooperation among Members in support of regional fishery bodies (RFBs).¹⁰

FAO's work with RFBs focuses on two main areas:

- § technical and administrative support to FAO's RFBs with a view to strengthening their roles, and
- § the promotion of collaboration and consultation among all fisheries bodies on matters of common concern.

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The Twenty-fifth Session of COFI, in considering the role and work of RFBs:

- § identified priority areas for FAO action including the strengthening of regional fishery bodies in particular to appropriately assist developing countries in improving their fisheries management;
- § agreed that measures of positive listing for fishing vessels should be adopted by RFBs;
- § recognized the need for improved regional cooperation in improving data and information on status and trends of fisheries and the roles of RFBs and FAO as stated in the FAO Strategy-STF;
- § agreed that capacity building is necessary to fulfil national needs, the needs of RFBs, existing obligations for reporting fisheries data to FAO, and so that developing countries can more fully participate in, and benefit from, the FAO Strategy-STF;
- § agreed that States, RFBs and international institutions should develop and implement mechanisms for the improvement of fisheries information, the application of research to enhance the availability of best scientific evidence, and the adoption of a continuing process for the enrichment of fishery status and trends information to support conservation, management and sustainable use of fishery resources at local, regional and global levels;
- § agreed that RFBs, within the limits defined by their conventions and to the extent mandated by their members, should participate in the implementation of FAO Strategy-STF, by providing support to their members, participating in global programmes and decisions on the development and adoption of standards and guidelines for information on the status and trends fisheries, becoming a partner in FIGIS.

FAO served as Secretariat of FAO's RFBs including Fishery Committee for the Eastern Central Atlantic (CECAF), General Fisheries Commission for the Mediterranean (GFCM), Western Central Atlantic Fishery Commission (WECAFC), Asia-Pacific Fishery Commission (APFIC), Regional Commission for Fisheries (RECOFI), Committee for Inland Fisheries of Africa (CIFA), Commission for Inland Fisheries of Latin America (COPESCAL), European Inland Advisory Fisheries Commission (EIFAC) and Coordinating Working Party on Fishery Statistics (CWP).

FAO also served as depository for some FAO and non-FAO RFBs including the Indian Ocean Tuna Commission (IOTC), International Convention for the Conservation of Atlantic Tunas (ICCAT), Lake Victoria Fisheries Organization (LVFO) and South East Atlantic Fisheries Organization (SEAFO). FAO participated in processes for the establishment of new RFBs including the Southwest Indian Ocean Fisheries Commission (SWIOFC) and Western and Central Pacific Fisheries Commission (WCPFC).

To maintain close collaboration with, and among, RFBs, FAO also observes meetings of some RFBs including the International Baltic Sea Fishery Commission (IBSFC), International Commission for the Conservation of Atlantic Tunas (ICCAT), Northwest Atlantic Fisheries Organization (NAFO), North-East Atlantic Fisheries Commission (NEAFC) and Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

In March 2003, FAO hosted the Third Meeting of Regional Fishery Bodies in Rome for facilitating

- § status of partnership between regional fishery bodies and FAO to develop the Fishery Resources Monitoring System (FIRMS);
- § implications for RFBs from the World Summit on Sustainable Development (WSSD);
- § approaches to incorporate ecosystems considerations into fisheries management by RFBs, and
- § relations between RFBs and UNEP.

Recommendations. This is expected to be completed in ILO Conferences to be held in July 2004 and July 2005.

FAO and the Administrative Committee on Coordination's Subcommittee on Oceans and Coastal Areas

Since the abolition of the Administrative Committee on Coordination's Subcommittee on Oceans and Coastal Areas (ACC-SOCA) by the UN Commission on Sustainable Development (CSD), inter-agency collaboration has been *ad hoc* and less effective. FAO has actively collaborated, formally through the UN System Chief Executive Board for Coordination (CEB) and informally through the interactions with UN/DOALOS and IOC, to the discussions on the establishment of the successor mechanism to SOCA. FAO has agreed to participate in the new Ocean and Coastal Network (OCAN).

FAO and IMO/FAO/UNESCO-IOC/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection

FAO continued to collaborate in the framework of IMO/FAO/UNESCO-IOC/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) in particular in the development of a strategy for its enhancement and consolidation which included formulation of a new Memorandum of Understanding among the GESAMP partner agencies, a Strategic Vision and Implementation Plan, and technical advice in support of GESAMP's advisory role in the envisaged Global Scientific Panel of the GMA process. In addition to hosting the Thirty-third Session of GESAMP, FAO's support to GESAMP included provision of technical secretariat to GESAMP Working Groups on Environmental Risk Assessment and Communication in Coastal Aquaculture, and Environmental Exposure Models for Application in Seafood Risk Analysis.

FAO and International Atomic Energy Agency

FAO continued to follow International Atomic Energy Agency (IAEA) activities related to the development and implementation of preparedness and response measures for actual, potential or perceived nuclear or radiological emergencies affecting the food and agricultural sectors.

6.0 Other issues

6.1 Subsidies

The magnitude of subsidies and their effects on the sustainability of fishery resources, on trade of fish and fish products and on other economic and social aspects of sustainable development is a matter of primary concern for the international fisheries community.

Since October 1999 FAO has been reporting about the Organization's work on fisheries subsidies to relevant major international meetings, including those of the Committee of Trade and Environment of the World Trade Organization (WTO) and of the Committee on Fisheries of the OECD as well as several technical meetings organised by UNEP and international non-governmental organisations.

The Twenty-fifth Session of COFI confirmed the importance of the subsidies issue, especially in the light of the debates and conclusions reached at the WSSD and the Fourth WTO Ministerial Conference (Doha 2001). COFI urged FAO to accelerate its work in relation to the impact of subsidies on fisheries resources sustainability and sustainable development. It also encouraged FAO to continue its leading role in promoting cooperation and coordination with other relevant intergovernmental organizations such as the WTO, OECD, UNEP and others in the field of fisheries. COFI agreed that FAO should convene a Technical Intergovernmental Consultation on the issue of subsidies in fisheries. In this Consultation, planned to be held in June 2004, attention should be given to a practical mandate to consider the effects of subsidies on fisheries resources, such as effects on IUU fishing and overcapacity, taking into account the impacts of subsidies on sustainable development, trade in fish and fishery products, food security, social security and poverty alleviation, especially in the context of recognizing the special needs of developing countries and small island developing States as recognized in international instruments.

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FAO hosted the Third *Ad hoc* Meeting of Intergovernmental Organizations on Work Programmes related to Subsidies in Fisheries (Rome, July 2003).¹⁵ [fn1# fn1](#) Like the previous two meetings held in 2001 and 2002, this meeting was intended to be an occasion to exchange information regarding ongoing activities, in order to create synergies and to avoid duplication of work. In addition, it also provided an opportunity for participant organizations to present and discuss the methodologies used by them to establish the effects and impacts of subsidies and to review in depth a proposed FAO's work programme.¹⁶ Taking into

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The Twenty-fifth Session of COFI:

- § reviewed the current status of MCS and VMS as tools for responsible fisheries management;
- § recognized the need for international cooperation in making VMS more effective as part of the MCS toolkit and particularly for dealing with the serious and growing problems of IUU fishing;
- § noted the activities of the International MCS Network and encouraged Members to join in this voluntary effort, and
- § agreed that FAO should continue to be closely involved with the work of the MCS Network, including provision of strengthened technical support for the coordination of communications and facilitation of awareness raising among Members for Network activities depending on the availability of resources to do so.

FAO also:

- § cooperated with IOTC in holding a VMS Workshop in the Seychelles for countries of the South West Indian Ocean.²⁰
- § convened a Seminar on VMS that was held in Rome concurrently with COFI to create awareness among the delegates of the contribution that VMS can make to the management of fisheries. Further VMS Workshops are planned for Central America and the Caribbean and for the Bay of Bengal region in 2004;
- § published the Technical Guidelines on Fishing Vessel Monitoring Systems in French and Spanish, and
- §

gear, and more rigorous measures for sustainable management of shrimp fisheries, including more effective MCS measures.

To initiate the introduction of gears fitted with by-catch reduction devices (BRDs) and of gears with improved selectivity, a series of training/ demonstration courses has been undertaken in Indonesia, the Philippines (in cooperation with the Southeast Asian Fisheries Development Center (SEAFDEC) and Mexico. A similar training course for the Near East region addressed to countries not participating in the project was organized and held in Iran to demonstrate the use of BRDs on traditional dhow boats.

Additional regional workshops to disseminate knowledge on mitigation measures for by-catch and discards and improved utilization of by-catch were held in Thailand (South East Asia) and in Kenya (East Africa). The outcome of these workshops was the estimation of discard figures from selected fisheries, and proposals for improved utilization of by-catch and measures to avoid discards.

B. MATTERS THAT MAY REQUIRE FURTHER ACTION (INCLUDING RECOMMENDATIONS) WITH AN EMPHASIS ON AREAS WHERE COORDINATION AND COOPERATION AT THE INTER-AGENCY LEVEL COULD BE ENHANCED

7.1 Environment crime and IUU fishing

International opinion is shifting from regarding IUU fishing as an administrative offence to being 'environmental crime'. Such crime is deemed to have occurred when individuals and companies deliberately evade national and international environmental laws and regulations in the pursuit of personal financial benefit. Where there is a movement of goods across boundaries or a transboundary impact to offences, such as occurs with illegal fishing in zones of national jurisdiction or in areas covered by RFMOs, the env.4(s)-3,(i)5.0 8s e thacesaada06(ju)7..7

RESOLUTION 6/2003**PROGRESS REPORT ON IMPLEMENTATION OF THE INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING****(Adopted by the FAO Conference at its Thirty-second Session on 9 December 2003)****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 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

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.