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COMMITTEE ON FISHERIES

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Recent Major Developments with Regard to Combating Illegal, Unreported and Unregulated (IUU) Fishing

Executive Summary

This paper summarizes the significant developments to combat illegal, unreported and unregulated (IUU) fishing and related activities which have occurred since the Twenty-ninth session of FAO's Committee on Fisheries (COFI) and been undertaken by FAO. It addresses the major global initiatives including port State measures, flag State performance and development of a comprehensive global record of fishing vessels, refrigerated transport vessels and supply vessels.

The Committee is invited to:

- encourage Members to ratify, accept or approve the 2009 FAO Agreement on Port State Measures to bring it into force as soon as possible, approve the draft terms of reference for the ad hoc working group referred to in Article 21 of the Agreement found in Appendix 1, and to make extra-budgetary contributions to support capacity-development activities to implement the Agreement;
- encourage Members to provide details of national contact points and a list of designated ports for inclusion in the FAO system, in accordance with the Agreement;
- encourage Members to advise the Secretariat if they require direct support to enhance information management capacity relevant to the implementation of Agreement as well as those countries that wish to support such activities;
- note progress with the negotiation of the Criteria for Flag State Performance and to provide guidance, as appropriate, towards the finalization of the Criteria; and
- encourage members to support progress on the Global Record through technical cooperation with the Secretariat and provision of extra-budgetary contributions to support development and capacity building.

INTRODUCTION

1. Illegal, unreported and unregulated (IUU) fishing remains a persistent and pervasive problem in world fisheries. Exacerbating poverty and food insecurity, IUU fishing continues to be a major threat to the long-term sustainability of fisheries and maintenance of productive and healthy marine eco-systems, and it can cause unstable socio-economic conditions, in particular, in some developing countries where fishery management capacity is inadequate or controls are weak.
2. Consistent with the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, the major instruments and tools being progressed by FAO are intended to interrupt attempts at IUU fishing activities at multiple points along the fisheries value chain. They focus on the roles of flag, port and coastal states and those of regional fisheries management organizations to achieve maximum effectiveness in combating IUU fishing. The initiatives being pursued also reflect an understanding that transparency, cooperation at all levels, exchange of information, sharing data in a harmonized manner, and enhanced capacity as well as strengthened governance and fisheries management are all needed to make IUU fishing less viable and more difficult and expensive to pursue.
3. The fight to prevent, deter and eliminate IUU fishing and related activities remains a priority on the global fisheries agenda. While this paper concentrates on FAO's activities, other organizations within the United Nations system have also been addressing IUU fishing's impacts and modalities and exploring how they might constructively interact on the issue. FAO participated in the task force on the report by the Secretary-General of the United Nations on the protection of Somali natural resources and waters, which included information about allegations of illegal fishing and its possible role in the situation regarding piracy¹ off the coast of Somalia. This report had been requested by the United Nations Security Council². The United Nations Office on Drugs and Crime looked into links between fishing and transnational organized crime in its report, *Transnational Organized Crime in the Fishing Industry, 2011*, to which FAO contributed³. The International Maritime Organization (IMO), which has a long history of cooperation with FAO on a number of fisheries issues, approached FAO recently on two matters regarding future relevant activities: a third meeting of the Joint FAO/IMO ad hoc Working Group on IUU Fishing and Related Matters and, a memorandum of understanding between the two organizations on cooperation on addressing some aspects of piracy in Somalia including strengthening fisheries management. FAO continues its ongoing cooperative work with IMO on the implementation of the Torremolinos Protocol which could become a useful tool in combating IUU fishing. The World Bank and FAO also are finding ways to expand collaboration on projects in areas where IUU fishing has been occurring. And while not a part of the UN system, INTERPOL invited FAO's participation in a recent meeting to discuss the formation of an INTERPOL ad hoc Fisheries Crime Working Group. The meeting developed strategic goals and a road map to further explore the role of INTERPOL in assisting its Member States in fisheries crime enforcement. While some of these organizations have not historically been involved with IUU activities, their expertise in helping to create more informed and comprehensive solutions to the IUU fishing problem is useful.
4. While aware of a variety of activities are being undertaken, this paper will focus on three primary initiatives: port State measures, flag State performance and the global record of fishing vessels, refrigerated transport vessels and supply vessels.

¹ See S/2011.661, Oct 2011. Report of the Secretary-General on the protection of Somali natural resources and water.

² UNSC Res 1976.

³ <http://www.unodc.org/unodc/en/human-trafficking/2011/issue-paper-transnational-organized-crime-in-the-fishing-industry.html>

AGREEMENT ON PORT STATE MEASURES

5. The FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the Agreement) was approved by the FAO Conference on 22 November 2009. It remained open for signature for one year (until 21 November 2010). In that period, 23 Members signed the Agreement. To date four Members (European Union, Myanmar, Norway and Sri Lanka) have ratified, approved or acceded to the instrument. However, at the twenty-ninth Committee on Fisheries (COFI) session 13 Members indicated that they had domestic processes in train towards ratification, acceptance or approval. Since that COFI session, two of the Members (European Union and Norway) that gave notification of their intention to ratify, accept or approve the Agreement have done so.

Informal open-ended technical meeting to review draft terms of reference for the ad-hoc working group.

6. In accordance with the request made at the twenty-ninth COFI session in relation to the implementation of Article 21 of the Agreement (paragraphs 32 and 33), FAO convened an informal open-ended technical meeting to review draft terms of reference for the ad-hoc working group referred to in paragraph 6 of Article 21 of the Agreement and draft terms of reference for an appropriate funding mechanism referred to in Article 21 of the Agreement to assist developing States implement the Agreement.⁴ The meeting agreed on draft terms of reference for the ad-hoc working group, found in Appendix 1, and reviewed draft terms of reference for a funding mechanism. The latter terms of reference will have to be considered further by the ad-hoc working group when it is eventually established.

Capacity Development

7. In April 2012 FAO will commence its global series of workshops to support the implementation of the Agreement. The initial workshop was convened in April 2012 for Members in Southeast Asia. Depending on the availability of extra-budgetary funds, the workshops will rotate to other regions.

Information Tools

8. FAO has prepared a range of information tools supporting the implementation of the Agreement as referred to in Article 16. The tools are classified into three groups:

- 1) public portals to disseminate consolidated information required for the implementation of the Agreement including a list of national contact points (Article 16-3), list of designated ports to which vessels may request entry pursuant to this Agreement (Article 7-1), and list of measures of decisions adopted and implemented by relevant regional fisheries management organizations in relation to this Agreement (Article 16-5);
- 2) communication mechanisms to allow direct electronic exchange of information among relevant national authorities, with due regard to appropriate confidentiality requirement (Article 16-1); and
- 3) a range of tools to facilitate implementation of the Agreement by the State, especially developing States, both as port States and flag States, including supporting internal and external information exchange, field operations and reporting.

⁴ FAO. 2011. FAO Fisheries and Aquaculture Report No 989. Report of the informal open-ended technical meeting to review draft terms of reference for the ad-hoc working group referred to in paragraph 6 of Article 21 of the 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the Agreement) and draft terms of reference for an appropriate funding mechanism referred to in Article 21 of the Agreement to assist developing States implement the Agreement. FAO. Rome. 18p.

9. The development of an overall framework supporting 1) and 2) is mostly complete and its first proto-type is expected to become available for review and feedback by Members during 2012. The same framework currently supports the revised High Seas Vessels Authorization Record portal and database in support to Article VI of the FAO Compliance Agreement.

CRITERIA FOR FLAG STATE PERFORMANCE

10. The Technical Consultation on Flag State Performance was convened in Rome from 2 to 6 May 2011. Modest progress was made at that meeting. The Consultation resumed its work from 5 to 9 March 2012.

11. Within its COFI mandate and the agenda adopted for the Technical Consultation, the meeting agreed to organize its work around the following structure: statement of purpose and principles; scope of application; performance assessment Criteria; procedure for carrying out assessments; cooperation between flag States and coastal States; encouraging compliance and deterring non-compliance by flag States; cooperation with, and assistance to, developing countries with a view to capacity development, and the role of FAO. Although some bracketed text remained in the Chairperson's draft text at the conclusion of the resumed session, substantial progress was made on key aspects of the draft text.

12. The resumed session of the Technical Consultation was characterized by a high degree of cooperation among Members. The Chairperson noted in his summary of the session that it was heartening to see the goodwill and flexibility shown by Members and their willingness to work hard towards achieving the goals of the Technical Consultation.

13. Recognizing the sound progress made in the Technical Consultation on Flag State Performance to develop draft Criteria for Flag State Performance, the Technical Consultation recommended that work proceed as soon as possible to finalize and adopt the Criteria. In this context, the Technical Consultation recognized further that the term "Criteria" included the criteria themselves, the process of assessment, cooperation between flag States and coastal States, the possible actions to be taken and assistance to developing countries.

GLOBAL RECORD OF FISHING VESSELS, REFRIGERATED TRANSPORT VESSELS AND SUPPLY VESSELS

14. Building a Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, (Global Record) is an enormous task, due, inter alia, to the large number of vessels involved. Thus, the work is being progressed in phases and with flexibility, and as funds, both regular programme and extra-budgetary, allow. Work on the Global Record is proceeding on several fronts.

15. For phase 1 of the Global Record, which includes the largest vessels, those over 100 GT/GRT or 24m, vessels will need to obtain a unique vessel identification number (UVI) from IHS-Fairplay. The UVI scheme follows the scheme used by the IMO for merchant vessels; the IMO scheme is also administered by IHS-Fairplay. There is no charge for obtaining the UVI but it is a prerequisite to entry into the Global Record. However, a campaign raising awareness is needed amongst stakeholders, in general, and vessel owners and national authorities responsible for vessel registration, in particular, about the UVI application process and its required information. This should also demonstrate how a UVI, which remains with the vessel permanently, contributes to combating IUU fishing. As part of the Global Record capacity building programme, this awareness raising is planned to begin later in 2012.⁵

⁵ A Conservation Measure passed by the International Sustainable Seafood Foundation, www.issf-foundation.org. Board of Directors gives vessels of a size subject to RFMO registry one year to obtain a UVI through the IHS-Fairplay administered IMO numbering system. The measure calls on ISSF participating companies to refrain from transactions with those vessels that fail to secure a number by May 31, 2011. An ISSF database of those vessels which have obtained the UVI is publicly available at <http://issf-foundation.org/imo-database/>.

While the data to be submitted to obtain a UVI has been identified for the largest vessels, to ensure uniform understanding of the terminology, FAO has completed a comprehensive draft definitions paper. This paper will be circulated for comment soon.

16. Many national authorities are also in need of capacity building to strengthen their national or regional vessel registries. This type of capacity development began in 2012 with an instructional workshop which FAO held in conjunction with the Central American Fisheries and Aquaculture Organization (OSPESCA) member States, building on the existing regional register of fishing vessels in the Central American region. The workshop developed a prioritized work plan for future needs at national, regional and global levels and a pilot project is anticipated.

17. Future vessel registry capacity building is planned for later in 2012 in another region and will continue in other regions as funds permit. Seeking cost effective solutions and the utilization of existing systems where feasible, FAO is also adapting existing comprehensive vessel registration materials developed in prior projects which will be used in those States or regions where such assistance is required.

18. FAO has also proposed implementation of phase 1 of the Global Record as an activity to reduce IUU fishing under the Global Environment Facility (GEF)-funded global project, Sustainable Management of Tuna Fisheries and Biodiversity Conservation in Areas Beyond National Jurisdiction.

19. The information tools and framework described as providing support for other instruments, including the Port State Measures Agreement and the revised High Seas Vessel Authorization Record, have also been used to assist the tuna regional fisheries management organizations as they move toward improved management of their vessel data. Additional development and review of the framework with data in the public domain is planned for 2012. The framework is also being explored for further applications and may have a role in the context of the Global Record.

Appendix 1

DRAFT TERMS OF REFERENCE

Ad Hoc Working Group under Part 6 of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

Background

1. Article 21 of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (hereinafter referred to as “the Agreement”) requires Parties to the Agreement (hereinafter referred to as “Parties”) to give full recognition to the special requirements of developing States Parties in relation to the implementation of port State measures consistent with the Agreement. Paragraph 6 of the said article requires Parties to establish an Ad Hoc Working Group that shall periodically report and make recommendations to the Parties on funding mechanisms.

Establishment of the Ad Hoc Working Group

2. The Ad Hoc Working Group is established pursuant to Article 21 (6) of the Agreement.
3. The Ad Hoc Working Group shall consist of representatives of the Parties.
4. The Ad Hoc Working Group shall, if consensus is not reached, elect by simple majority of the Parties present and voting, its chairperson and vice-chairperson(s) from among the Parties for a term of two years, with one of them representing a developing State Party.
5. The FAO Fisheries and Aquaculture Department shall provide services to the Ad Hoc Working Group.

Observers

6. The following shall be eligible to participate as observers in meetings of the Ad Hoc Working Group:
 - (a) signatories and all other non-Parties having an interest in becoming a Party to the Agreement;
 - (b) intergovernmental organizations whose mandates include addressing port State measures; and
 - (c) international non-governmental organizations that have demonstrated an interest in the Agreement by participating in the Technical Consultation to Draft a Legally-binding Instrument on Port State Measures, June 2008–August 2009.
7. Observers may address the Ad Hoc Working Group at the discretion of the Chairperson.
8. Observers shall not participate in decision making.

Functions of the Ad Hoc Working Group

9. The Ad Hoc Working Group shall report and make recommendations to Parties on:
 - (a) the establishment of a funding mechanism;
 - (b) priorities for the use of the funding mechanism; and

- (c) identification of States, intergovernmental organizations, international financial institutions, regional economic integration organizations, national institutions, non-governmental organizations, foundations, as well as natural and juridical persons, that shall be approached by FAO to make voluntary financial contributions to the funding mechanism.

Meetings of the Ad Hoc Working Group

10. The first meeting of the Ad Hoc Working Group shall be convened at FAO Headquarters between 90 and 120 days after the Agreement has entered into force, and shall thereafter meet at least every other year, preferably back-to-back with meetings of the FAO Committee on Fisheries at FAO Headquarters. A Party may request additional meetings of the Ad Hoc Working Group, which shall be convened if one third or more of the Parties agree to that request.

Expenses

11. Participants shall meet their own expenses or obtain the financial resources necessary to attend meetings of the Ad Hoc Working Group. The attendance of representatives of developing States Parties to the Agreement may be funded by the mechanism referred to in paragraph 9 (a).

12. The administrative expenses of the Ad Hoc Working Group shall be covered by the funding mechanism referred to in paragraph 9 (a).

13. The FAO Fisheries and Aquaculture Department shall prepare and submit reports to the Ad Hoc Working Group on the use of the expenses referred to in paragraph 12.

Language

14. In principle, the meetings of the Ad Hoc Working Group shall be conducted in the English language, and documents related to the work of the Ad Hoc Working Group shall be prepared in the English language.

General reporting on the activities of the Ad Hoc Working Group

15. A general report prepared by the FAO Fisheries and Aquaculture Department on the activities of the Ad Hoc Working Group shall be presented to meetings of the FAO Committee of Fisheries.

Decision making

16. Notwithstanding the procedure for the election of the chairperson and vice-chairperson(s) under paragraph 4, decisions of the Ad Hoc Working Group shall be taken by consensus of the Parties present at the Ad Hoc Working Group meeting.

Revision and review

17. These Terms of Reference may be revised by the Parties if circumstances so require.

18. The Parties shall, within the framework of Article 24 of the Agreement, review the activities of the Ad Hoc Working Group with the view to assessing and evaluating the effectiveness of the implementation of these Terms of Reference.

Publicity

19. The FAO Fisheries and Aquaculture Department shall maintain on the FAO's website information on the Ad Hoc Working Group including the report provided in accordance with paragraph 15 of these Terms of Reference.