

Report of the

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**TWENTIETH SESSION OF THE COMMITTEE ON FISHERIES**

Rome, 15-19 March 1993



FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS



REPORT  
OF THE  
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### PREPARATION OF THIS REPORT

This is the final version of the report as approved by the Twentieth Session of the Committee on Fisheries.

#### Distribution:

All FAO Member Nations and Associate Members  
Participants in the session  
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FAO Fisheries Department  
Fishery Officers in FAO Regional Offices

FAO

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**ABSTRACT**

The Twentieth Session of the Committee on Fisheries held from 15 to 19 March 1993 gave unanimous support to FAO initiating the elaboration of a Code of Conduct on Responsible Fishing and endorsed the proposed possible content, priorities and time-frame for its elaboration and adoption. The Committee recommended that in elaborating the Code, priority should be given to the sections on *Fishing Operations, Fair Trade Practices, Aquaculture, Development and Integration of Coastal Fisheries in Coastal Area and Management*. The Committee expressed satisfaction that FAO would contribute to the forthcoming UN Conference on Straddling Stocks and Highly Migratory Fish Species and assist the Secretariat of the Conference on technical issues.

A Working Group was established by the Committee to deal with the issue of *Flagging of Vessels Fishing on the High Seas*, but the Committee agreed that a further technical meeting was required in order to finalize a Draft Agreement on that issue.

The Committee endorsed the action proposed as a follow-up to the International Study on Fishery Research Needs of Developing Countries (SIFR) including the reconstitution of the *Advisory Committee on Marine Resources Research (ACMRR)* as the *Advisory Committee on Fisheries Research (ACFR)*.

A substantive technical debate took place on the situation of world fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea and specifically highlighted some of the issues affecting the sustainable development of fisheries and aquaculture.

The Committee reviewed progress in implementing both the regular and field programmes of FAO in fisheries noting the importance of regional collaboration in the development and management of fisheries, as well as the protection of environment.

The Committee endorsed the medium-term perspectives 1994-99 and the Programme of Work and Budget in Fisheries for 1994-95.



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19 March 1993

Excellency,

I have the honour to transmit to you herewith the report of the Twentieth Session of the Committee on Fisheries, which was held in Rome from 15 to 19 March 1993.

Accept, Excellency, the assurance of my highest consideration.

  
Rafael Conde de Saro  
Chairman  
Committee on Fisheries

His Excellency  
Antoine Saintraint  
Independent Chairman  
Council of FAO



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## MATTERS REQUIRING ATTENTION BY THE COUNCIL

### A. MATTERS FOR DECISION

The Committee endorsed the proposal for the establishment of an Advisory Committee on Fisheries Research (ACFR) to replace the Advisory Committee on Marine Resources Research (ACMRR).

The ACMRR was originally established by the Director-General under Article VI.2 of the FAO Constitution under the authority of a decision taken at the Eleventh Session of the FAO Conference in 1961. Accordingly, the Twenty-seventh Session of the Conference in November 1993 will be requested to approve change to the title, structure, composition and functions of the Advisory Committee.

The Council is requested to endorse the recommendation of the Committee and to request the Director-General to submit his proposals to the Sixty-first Session of the Committee on Constitutional and Legal Matters (CCLM) in September 1993.

### B. MATTERS FOR INFORMATION

#### Review of FAO's Programmes in Fisheries (1991-92)

The Committee concurred that the work of the Fisheries Department during the preceding and current biennia continued to address many of the objectives and criteria established at its Nineteenth Session and was in conformity with the Medium-Term Plan endorsed by the Conference.

Many delegations expressed satisfaction with the execution of FAO's field programme and stated the wish that donors should increase their funding of this programme. The Committee agreed that in fisheries there was a close link between Regular Programme work and activities in the field.

The Committee appreciated how FAO had responded to emerging issues and displayed flexibility in adjusting its fisheries programme. It recognized the important contribution it had made to the International Conference on Responsible Fishing and the United Nations Conference on the Environment and Development which both set the stage for future international action and cooperation in a number of vital aspects of fisheries management and development.

The Committee noted with satisfaction that the Fisheries Department, as the lead unit within FAO for activities concerning integrated coastal area management, was closely collaborating with UNEP and the World Bank in following up on UNCED recommendations in this field. The Committee supported the priority given to programmes for fish utilization including the use of by-catches for human nutrition where this was feasible. The Committee underscored the need for FAO to provide assistance in strengthening the work of the General Fisheries Council for the Mediterranean and the Black Sea Commission and to look into the possibility of creating a similar body for the Caspian Sea.

### World fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea

In reviewing the situation of world fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea, the Committee considered that the problem of controlling access to fishery resources needed to be addressed urgently in view of the overexploitation of some stocks and the overcapacity of many large-scale distant-water fleets. The Committee regretted that the development of the artisanal fisheries sector, in many part of the world, continued to be constrained by the lack of inputs, restricted access to simple credits and inadequate infrastructure and social services.

Whilst welcoming the rapid increase in production from aquaculture, the Committee warned of the possible negative impact on the environment from improper aquaculture practices and therefore recommended that FAO should continue its assistance in monitoring the environmental aspects of aquaculture.

### Fisheries research needs of developing countries

The Committee agreed with the major research challenges identified by the Study on International Fisheries Research Needs (SIFR). It also agreed with the approach taken by FAO and recognized that the first priority was to promote the development of national capacity in applied fishery research. As already stated above, the Committee endorsed the establishment of an Advisory Committee on Fisheries Research to replace the Advisory Committee on Marine Resources Research. The comparative advantage in using the regional fishery bodies as fora for discussing and coordination of research needs was recognized.

The Committee recommended that FAO approach the Global Environmental Facility of World Bank/UNDP for financial assistance to address environmental concerns which had implications for fisheries.

### High seas fishing

The Committee reiterated that sustainable resource use must be the basic guiding principle for the management of high seas fishing. It recognized the important role to be played by FAO in respect of the compilation and dissemination of high seas fisheries data. It also agreed that FAO should undertake a special programme of assistance to developing countries in high seas fishing, especially for small island countries, coastal States with a high potential to exploit highly migratory species, and countries with a high demand for fish and fishery products.

The Committee expressed satisfaction that FAO would contribute in a technical and scientific capacity to the forthcoming United Nations Conference on Straddling Stocks and Highly Migratory Fish Species.

### Conservation and rational utilization of living marine resources with special reference to responsible fishing

The Committee noted that the Council had already endorsed the request in the Declaration of Cancún for FAO to elaborate, in consultation with relevant international organizations, an International Code of Conduct on Responsible Fishing and unanimously agreed that such a Code would be important for future sustainable fishery development.

The Committee reiterated its full support to the Declaration of Cancún, issued by the International Conference on Responsible Fishing in May 1992. Within the Code, utmost priority was accorded to the section on fishing operations. It agreed that the Code of Conduct would be implemented on a voluntary basis but parts of it or its Annexes may well be used in the promulgation of national fishery laws and regulations as well as bilateral and multilateral agreements.

The Committee endorsed the proposed time frame for the preparation of the Code. This implies that the Secretariat will make available to the Twenty-first Session of the Committee in spring 1995 drafts of the sections on Fishing Operations, Fair Trade Practices, Aquaculture Development and Integration of Fisheries in Coastal Area Management. At the same time, progress reports will be submitted on the two remaining sections: Fishery Management Practices and Fishery Research.

#### Flagging of fishing vessels

Recognizing the difficulties caused by the flagging of fishing vessels to avoid internationally agreed conservation and management measures and fair trade practices, the Committee agreed that the elaboration of an International Agreement on the Flagging of Vessels Fishing on the High Seas should be kept on a fast track. While reiterating that flagging issues would be among the issues which would be covered by the proposed Code of Conduct on Responsible Fishing, the Committee emphasized the importance of elaborating them, without delaying other components of the Code of Conduct.

Since the Working Group, meeting in parallel with the Committee, had not been able to finalize a text for an Agreement, in spite of substantial progress, the Committee encouraged the Director-General to explore the possibility of convening a Technical Consultation for that purpose. Since such a meeting had not been provided for in the current FAO Programme of Work and Budget, the Committee suggested that all possible donors, including OECD members, should contribute to both the operational costs of the meeting and to the financing of attendance from developing countries.

#### Medium-term perspectives in fisheries 1994-99

The Committee endorsed the objectives and long-term priorities proposed for the Major Programme 2.2: Fisheries and noted with satisfaction that the particular areas of additional attention had been developed on the basis of UNCED Agenda 21, the International Conference on Responsible Fishing, the FAO Technical Consultation on High Seas Fishing and the FAO/WHO International Conference on Nutrition. It highlighted as priorities the development of an International Code of Conduct on Responsible Fishing and the promotion of sustainability in worldwide fisheries. It identified the following other priorities at programme level: fisheries information including adequate monitoring of the status of the stocks; assistance in policy and advice and planning for sustainable fisheries; marketing and quality assurance; as well as inter-country cooperation through FAO regional fishery bodies.

#### The work of FAO in fisheries during 1994-95

The Committee generally supported the activities proposed for implementation under the Major Programme 2.2: Fisheries in 1994-95 and expressed the hope that the proposed reduction in resources for this purpose could be reversed in the formulation of the full Programme of Work and Budget.



## INTRODUCTION

1. The Committee on Fisheries held its Twentieth Session in Rome from 15 to 19 March 1993. The Session was attended by 86 members of the Committee, by observers from six other FAO Member Nations, two non-Member Nations of FAO, and the Holy See, by representatives of the United Nations Development Programme, the United Nations Environment Programme, the United Nations Industrial Development Organization, the Intergovernmental Oceanographic Commission, the World Bank and the World Food Programme and by observers from 18 other intergovernmental and international non-governmental organizations. The list of delegates and observers is given as Appendix B to this report.

## OPENING OF THE SESSION

2. The meeting was called to order by the Chairperson of the Committee, Sra María de los Angeles Moreno (Mexico). In her opening remarks, the Chairperson highlighted a number of prevailing problems confronting the fishery sector which needed to be solved through individual and collective efforts. She recalled international events in the world fisheries sector since the last COFI session; these included the International Conference on Responsible Fishing held in Cancún, the United Nations Conference on Environment and Development (UNCED), the Technical Consultation on High Seas Fishing, and the International Conference on Nutrition (ICN). She pointed out that the combination of ecological issues with responsible exploitation of the fisheries resources, safeguarding at the same time the economic interest of the people involved, deserved special attention. She noted that ten years after the United Nations Conference on the Law of the Sea, equitable access to resources and fair access to international trade continued to be issues. She emphasized the role of FAO in orienting the medium- and long-term plan of fishery programmes within the framework of the 1984 World Fisheries Conference (WCF).

### Statement of the Director-General

3. The Session was inaugurated by the Deputy Director-General, Mr. H.W. Hjort, on behalf of the Director-General, Mr. Edouard Saouma. He welcomed in particular the Ministers of Fisheries of Angola, Congo, Mozambique, Sri Lanka and the Russian Federation, and the Vice-Ministers of Chile, Latvia, Lithuania and Mexico, present at the session. The text of the Director-General's opening statement is reproduced in Appendix D.

### Statement by the Guest Speaker

4. The Guest Speaker was Dr. Gunnar Saetersdal, Senior Scientist, Institute of Marine Research, Bergen, Norway. He delivered a keynote address at the invitation of the Director-General of FAO on "Fisheries Research and Fisheries Management - Historical Perspectives and Some Current Challenges", which reviewed briefly the main events in the histories of fisheries science and management particularly in the North Atlantic and the main problems which still remain unresolved at the present time. The Committee, in a tribute to Dr Saetersdal, expressed its appreciation of his outstanding contribution to fisheries research, particularly to the benefit of developing countries. The text of this address is reproduced in Appendix E.

### Statements by Ministers Responsible for Fisheries

5. At the invitation of the Chairperson, the Vice-Minister of Mexico and the Minister of Fisheries and Aquatic Resources of Sri Lanka addressed the Committee.

6. The Vice-Minister of Fisheries of Mexico, the Honourable Carlos Camacho Gaos stressed the importance to Mexico of holding the Chair of COFI in strengthening its activities in fisheries, both nationally and internationally, during the past two years. He recalled the concept of responsible fishing put forward by the Cancún Conference, at which 66 countries and international bodies participated and acknowledged the support that Mexico had received in the organization of the Conference from the FAO Director-General and the Department of Fisheries. He expressed the hope that the present session would lead to the elaboration of a Code of Conduct for Responsible Fishing, essential to equitable and sustainable fisheries development.

7. The Honourable Joseph Michael Perera, Minister of Fisheries and Aquatic Resources of Sri Lanka stressed the leadership of FAO in facing the challenges of widespread over-exploitation of fishery resources and irresponsible fishing practices. He reviewed developments in Sri Lankan fisheries in the last decades and highlighted his Government's special efforts in improving socio-economic conditions of small-scale fisherfolk, while managing coastal resources and reinforcing its legal framework. He expressed concern over pollution caused by oil tankers. He highlighted the role and expertise of FAO in supporting the efforts of developing countries in all aspects of fisheries development. He expressed his Government's support to FAO initiatives for promoting responsible fishing and cooperation in high seas fishing.

#### **ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE SESSION**

8. The Committee adopted the agenda as shown in Appendix A to this report. The documents which were before the Committee are listed in Appendix C.

9. A Drafting Committee was appointed comprising representatives of Angola, Argentina, Canada, China, France, Iran (Islamic Republic of), Japan, New Zealand, Nigeria, Norway, Poland, the Republic of Korea and Uruguay. It elected Dr Choung Il Chee (Republic of Korea) as its Chairman and Mr Katsuma Hanafusa (Japan) as Vice-Chairman.

#### **ELECTION OF CHAIRMAN AND VICE-CHAIRMEN**

10. As this was the first and only Session being held in the 1992-93 biennium, the Committee was required to elect a Chairman, a First Vice-Chairman and four other Vice-Chairmen. Mr. Rafael Conde de Saro (Spain) was unanimously elected Chairman of the Committee. Mr. Berrahou Abdellatif (Morocco) was also unanimously elected First Vice-Chairman and Thailand, Sweden, Brazil and Malta as the other Vice-Chairmen.

#### **Statement by the Chairman**

11. In taking the Chair, Mr. Rafael Conde de Saro highlighted the problems facing the fishing industry. He pointed out that responsible fishing and a Code of Conduct were strictly related and that a satisfactory solution had to be based on consensus. He stressed the need for all States, as well as the people in the fishing industry (boat owners, crew and fishermen), to cooperate in the implementation of the International Code of Conduct on Responsible Fishing and in the process leading to its adoption. He expressed the view that intensification of dialogue among all concerned, as well as joint efforts, are necessary to achieve this objective.

## REVIEW OF FAO'S PROGRAMMES IN FISHERIES (REGULAR AND FIELD PROGRAMMES)

12. This agenda item was introduced by the Secretariat on the basis of documents COFI 93/2 and COFI 93/3 which reviewed the progress made in the implementation of fisheries activities during the 1991/1992 biennium.

13. The Fisheries Department Programme of Work for 1992-93 was placed within the framework of the medium-term plan for the Major Programme in Fisheries agreed by the Nineteenth Session of the Committee on Fisheries and endorsed by the Twenty-sixth Session of the Conference. These medium-term objectives, which are closely related to the Strategy and to the Programmes of Action approved by the 1984 World Fisheries Conference on Fisheries Management and Development, are:

- to assist in strengthening national self-sufficiency of developing countries for the better management and development of their fisheries, the conservation of aquatic ecosystems, and the prevention of environmental degradation;
- to support full participation and equitable sharing of benefits among all who are dependent on fishery activities, in particular small-scale fishing communities and small-scale fish farmers in developing countries, so maximizing the contribution of fisheries to rural development;
- to assist developing countries to increase the productivity of their fisheries through the reduction of by-catch and post-harvest losses, the development of products from under-utilized resources, and reduction of production costs;
- to assist developing countries to increase their participation in international trade in fish and fishery products;
- to assist in accelerating sustainable aquaculture development.

14. The Committee concurred that the work of the Fisheries Department during the preceding and current biennia continued to address many of the objectives and criteria it had established at its Nineteenth Session and was in conformity with the medium-term plan endorsed by the Conference. The Committee recognized that notwithstanding the current financial limitations the FAO Fisheries Department had made important contributions to two major events in 1992, the International Conference on Responsible Fishing and the UN Conference on Environment and Development and had organized, as requested by COFI and the FAO Council, the Technical Consultation on High Seas Fishing in September 1992. These meetings had set the stage for future international action and cooperation in a number of vital aspects of fisheries management and development. The Committee appreciated how FAO had responded to the emerging issues and had displayed flexibility in adjusting its programme of activities.

15. The Committee welcomed the presentation of the summary reviews of the Regular and Field Programmes' work as requested by the Nineteenth Session and asked that this practice be perfected and continued. While general satisfaction was expressed in respect of the contents of these reports, several members pointed to the need for greater transparency regarding the linkages between the Regular and Field Programmes. As well, the need for more detailed information on outputs and impacts was highlighted, if the membership were to have an appropriate basis on which to render

its advice and evaluations on programme activities. Many delegations expressed their satisfaction with the execution of FAO's field programme and their wish that donors should increase their funding of this programme.

16. Regarding more detailed output, the Secretariat pointed out that while some more facts and figures could probably be provided, it would be difficult and costly to regularly collect such data throughout the Fisheries Department. The Programme Implementation Reports submitted to the FAO Conference contained systematic output indicators. Impact assessment was undertaken on a selective basis and reported upon to the FAO Conference in the Regular Programme Evaluation Reports, which included also fishery subjects. The Secretariat also advised the Committee that, for example, advice given on policy and management to national administrations, not only took time to implement but was considered by governments in the light of national priorities, resources and availability of funds, which were all beyond the control of the Organization.

17. The Committee noted that evaluation of the results/outputs of field projects were regularly undertaken by typical annual, tripartite reviews, as well as by specific evaluation missions, the reports of which were submitted to the beneficiary countries.

18. The Committee agreed that in fisheries there was a close link between the Regular Programme work and activities in the field which was beneficial to both because the effective execution of projects required technical backstopping in the wide range of expertise available in the Fisheries Department, while work at Headquarters maintained a practical orientation to the needs of its member countries. Some countries suggested that a Field Programme Committee for FAO's field programme as a whole, including the fisheries programme, be created. A question was raised suggesting further review of the linkage between the two programmes and how they relate.

19. Concern was expressed at the need to improve the collection of data and the provision of statistical information which, in spite of the emphasis given to training, had not appeared to have reached acceptable levels. The Committee recognized that many governments, especially of developing countries, were having difficulties in maintaining the trained manpower required and in ensuring the timely transmission of reliable data. It was emphasized that FAO should continue to make every effort to assist in this field. It was also suggested that FAO take steps to harmonize the coding and classification systems used in the Species Identification Manuals and the Fishery Statistical Series.

20. The Committee noted the natural progression since the World Fisheries Conference of the five Programmes of Action through to a more integrated approach to development. The Organization and its members will continue to address the needs related to national fisheries sectors through activities currently carried out within the framework of the five Programmes of Action. The Committee was informed of the proposal to set up a Special Action Programme which would address the overall concern with environmental issues and the drive towards more responsible fishing, as a response to the International Conference on Responsible Fishing and the United Nations Conference on the Environment and Development (UNCED) and as part of a general streamlining of such Special Action Programmes in FAO. The new Programmes would be submitted for the consideration and approval of the forthcoming Sessions of the Council and the Conference.

21. The Committee noted the decline in the number of publications, while the allocations had increased substantially. The Committee was informed that the extra costs had arisen mainly from increased printing and translation costs, and the reduction of publications resulted from an increased

number of vacant posts due to the need for savings against a shortfall in the allocations which meant that fewer staff were available to generate and supervise the production of technical publication material.

22. The Committee was reassured that the changes in the arrangements over the production of ASFA did not mean that the information system would be discontinued. It was noted that as ASFA was a self supporting commercial system, it was no longer appropriate for FAO to subsidize its production and that the savings realized would contribute to the provision of a wider based information system drawing on the considerable material and work available and produced in developing countries institutions, which had hitherto not been sufficiently covered. It was further noted that one of the central mandates of FAO was information generation, retrieval, analysis and dissemination and it was the intention to strengthen this role.

23. The Committee recognized the valuable information provided on a regular basis by the GLOBEFISH System. The Committee was also informed of the impending move of the Fisheries Department to the main building which entailed a restructuring of the Department's library and information service whilst still maintaining a degree of specialized separation to meet the requirements of users of the services.

24. It was requested that the FAO fisheries activities undertaken in the Southwest Pacific region (which is already designated by FAO as a separate region for statistical purposes) be reported separately from those in the Asia region. The Secretariat took note of this request.

25. The Committee urged that a greater degree of consultation be undertaken between the FAO regional fishery bodies and other regional bodies on fisheries development and management topics to avoid duplication of effort. Taking note of this request the Secretariat pointed out that to provide more detailed reports would entail considerable additional staff inputs from the Organization.

26. The possible effect on the field programme of the UNDP support cost successor arrangements was noted. The hope was expressed that attention to the issues of women in development, sociological concerns and support to the poorer communities would not suffer from further Regular Programme and extra-budgetary Field Programme reductions.

27. Whilst full support was given to the role of FAO as a coordinator in the field of fisheries and a lead agency in some specific aspects, it was suggested that scarce resources should not be applied to fields where FAO was not a lead agency. In response to a suggestion that FAO give greater attention to the consequences of the protection of marine mammals in the marine ecosystem, the Secretariat noted that this would require extra resources and that FAO's present practice was simply to maintain close collaboration with other agencies, such as UNEP and IWC.

28. In the matter of integrated coastal area management (ICAM), the Committee stressed the need for close collaboration between not only agencies but also departments within agencies, since the coastal zone was affected by all land usage and watershed areas with which it was associated. In this connection, the Committee noted with satisfaction that the Fisheries Department, as the lead unit for coordination of activities within FAO, was closely collaborating with UNEP and the World Bank in the preparation of guidelines on ICAM in follow-up to the recommendations of UNCED. It was further noted that FAO's main concern was to ensure the integration of the agriculture, fisheries and forestry sectors with coastal area management, planning and development.

29. In response to a question regarding the shift of resources to activities related to environmental issues in fisheries, the Secretariat indicated that such resources had become available as a result of reduced demand for technical assistance by regional fishery bodies and field projects, as well as a partial transfer of resources from conventional stock assessment to issues related to natural and climate driven fluctuations of fish stocks. The Secretariat stressed that the Fisheries Department work was aiming at the fisheries component of the environmental issues and that this work was done in cooperation with relevant agencies.

30. Given the few opportunities for increasing catches on a sustainable basis from most fisheries, the Committee supported the priority given to programmes for improved fish utilization, including the use of by-catches for human nutrition, where this was feasible. Priority attention should also be given to training and advice in fish quality assurance and fish inspection systems, including support to the Codex Alimentarius work in fish products.

31. The Committee noted the increasing attention being paid to aquaculture, particularly as a complement to capture fisheries where these had reached their upper limit. However, it was also noted that problems such as pollution and epizootic diseases were of growing concern in the Asian region and that FAO assistance in the prevention and cure of these problems was very much appreciated. The Committee considered that FAO should continue its assistance in monitoring the environmental effects of aquaculture.

32. The Committee emphasized that the growth of aquaculture depended on the supply of trained manpower and that in the case of the African Regional Aquaculture Centre, Port Harcourt, Nigeria, the termination of the UNDP project and the absence of international expertise had led to serious consequences in the overall development of aquaculture in the African Region.

33. The Committee noted the importance of regional collaboration in the development and management of fisheries, as well as the protection of the environment. In this connection it underscored the need for FAO to provide assistance in strengthening the work of the General Fisheries Council for the Mediterranean (GFCM) and the Black Sea Commission and to look into the possibility of the creation of a similar body for the Caspian Sea.

34. The Committee expressed its concern for conservation and sustainability and emphasized the importance of translating this into appropriate action. In this context it stressed the importance of tackling simultaneously the socio-economic problems of the fisherfolk communities concerned.

#### SPECIAL ISSUES

(a) World fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea

35. This agenda item was introduced on the basis of document COFI/93/4 and related documents which had been prepared in response to the Committee's expressed wish that it should have regular opportunities of examining the overall state and prospects of world fisheries. The main document summarized the development of world fisheries since the adoption of the 1982 United Nations Convention on the Law of the Sea, relying largely upon the comprehensive analysis of this subject set out in the special Chapter prepared for the 1992 edition of FAO's publication, "The State of Food and Agriculture (SOFA)" (COFI/93/Inf.6). It also took account of the special publication entitled, "Implementation of the Strategy Adopted by the FAO World Conference on Fisheries Management and Development" prepared at the request of the Committee at its last session,

summarizing progress made in implementing the Strategy for Fisheries Management and Development endorsed by the 1984 FAO World Fisheries Conference. Reference was also made to the information documents, "Review of the State of World Fishery Resources and Aquaculture" (COFI/93/Inf.4), "Fish Utilization and Trade" (COFI/93/Inf.5) and "UNCED and its Implications for Fisheries" (COFI/93/Inf.8).

36. In reviewing the main developments discernible in world fisheries and specifically highlighting some of the issues affecting the sustainable developments of fisheries, the Committee learned with concern that the consistent growth recorded in marine catches during the period under review, had been achieved only at significant cost, including *inter alia*, over-exploitation of some stocks. The Committee was also informed that commercial fishing industries especially large-scale distant water fleets were, in a number of cases, maintained by substantial subsidies and other forms of government support. This had contributed to the present considerable overcapacity of the world fishing fleet.

37. The Committee noted that while many coastal States had benefitted markedly from the extension of national jurisdiction over fisheries as provided by the "1982 UN Convention on the Law of the Sea", a number of distant water fishing nations had suffered through loss of access to their traditional fishing grounds.

38. The Committee acknowledged that small-scale/artisanal fisheries accounted for more than a quarter of the entire world catch and in many developing countries constituted an important source of food, income and employment. It regretted, however, that the expectations that the new legal regime of the seas would help to create significant improvements in the socio-economic well-being of artisanal fishing communities had not yet been fulfilled. The development of the sector, in many parts of the world, continued to be constrained by lack of inputs, restricted access to simple credit and inadequate infrastructure and social services.

39. The Committee welcomed the rapid increase in production from aquaculture, now estimated worldwide to exceed 14 million tons annually. It warned, nonetheless, about the possible negative impact on the environment which could result from improper aquaculture practices, if care was not taken.

40. On the issue of management, the Committee recognized that a fundamental problem which needed to be addressed urgently was that of controlling access to fishery resources. It reaffirmed that the consequences of continued open access had led in many cases to a depletion of marine stocks, the dissipation of economic rents and increased conflict among users of the resources. Several delegations described policies and mechanisms they had used in their countries to achieve better management of the fisheries resources, such as the establishment of cost-effective systems of monitoring, control and surveillance of fishing activities in their EEZs.

41. The Committee recognized that the prime responsibility for taking necessary management decisions rested with governments, but called on international organizations and donors to provide necessary support and assistance to developing countries required to implement relevant management measures. In particular, several countries requested assistance to develop their technical capacity through appropriate training programmes so as to be better able to both exploit and manage their resources.

42. The Committee referred to the growing threats to the proper management and sustainable development of fisheries which were arising from environmental degradation and pollution. The

Committee reiterated that the agreements reached with regard to fisheries and the environment at the United Nations Conference on the Environment and Development (UNCED) provided the framework for national and international efforts to resolve the critical issues, in particular those concerned with multiple and potentially conflicting uses of coastal areas and water systems. It asserted that greater efforts needed to be made by governments to put in place an effective system of integrated coastal area management which would provide a framework for dealing with interactions between different economic activities and with issues of nature and biodiversity conservation.

43. Many delegations drew attention to the large quantity of fish presently discarded at sea and the need to encourage the landing of this fish for human consumption through a solution of the technical, economic and logistical problems. In addition, there were many "unconventional" stocks and other aquatic organisms that could be caught if methods were found to make them readily acceptable to consumers.

44. The Committee was pleased to learn that supplies of fish for human consumption rose by two-fifths during the 1980s and that the expansion of international trade in fish and fishery products had been particularly marked in value terms, with exports reaching a total of US\$ 36 000 million in 1990 compared with US\$ 15 000 million in 1980. The Committee noted with satisfaction that the share of international fish trade accounted for by developing countries had increased substantially to about 47 percent of the total exports. With reference to the importance of international trade and its beneficial effects, many delegations called for the removal of tariff and non-tariff barriers on trade which restricted the market for fish products.

45. The Committee noted that the 1984 FAO World Fisheries Conference and the Strategy for Fisheries Management and Development, which was endorsed by the Conference, had assisted countries with introducing policies relevant to fisheries management and development as well as attainment of long-term benefits from the fishery resources within their EEZs.

46. The Committee stressed the importance of regional and international cooperation as a means of improving stock assessment, enhancing resource management and promoting fisheries agreements between countries. The Committee noted the positive contribution which regional fisheries bodies had made to management and development, and called for their strengthening. In this context, reference was made to the role of FAO regional fishery bodies and non-FAO bodies, such as the South Pacific Forum Fisheries Agency (FFA), Organización Latino-Americana de Desarrollo Pesquero (OLDEPESCA) and the Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean.

47. The Committee, while stressing the urgent need to address issues related to responsible fishing and high seas fishing, noted that these subjects would be discussed separately under items 5.2 and 5.3, respectively.

48. Overall, the Committee considered that the ten years which had elapsed since the adoption of the UN Convention on the Law of the Sea had witnessed both expected and unanticipated developments in world fisheries. While, in general, the 1980s might be considered a period of transition and adjustment to the realities of the new legal regime of the sea, many tasks still needed to be addressed before the potential benefits of extended national jurisdiction could be more fully realized.

(b) Fisheries research needs of developing countries

49. In introducing document COFI/93/7, the Fisheries Research Needs of Developing Countries, which provided an outline of the Study of International Fisheries Research Needs (SIFR), it was noted that an Executive Secretary had been appointed by the SIFR Steering Committee to help match research priorities in countries and regions with donors' interests and resources who would be based at IDRC, Ottawa, Canada. The Committee also noted that Canada had committed funds for activities to discuss the strategy with groups in other countries. FAO was also continuing direct action to strengthen developing countries' fisheries research capacities. Discussions on fishery research needs and priorities had been on the agenda of all meetings of FAO regional fishery bodies and regional projects held in the last year, as well as of other fishery research related meetings.

50. The Committee agreed that the first priority for SIFR was to promote the development of national capacity in applied fishery research. It fully understood the follow-up action taken by FAO, including the designation of a focal point for fisheries research. The proposal for the establishment of an Advisory Committee on Fisheries Research, which would replace the Advisory Committee on Marine Resources Research, was endorsed.

51. The comparative advantage in using the regional fishery bodies as fora for discussions and coordination of research needs was recognized. It was noted that special attention should be given to the Pacific island States which were not members of the Indo-Pacific Fishery Commission (IPFC), and that in a number of other regions appropriate mechanisms may need to be established. In this regard the proposed creation of the Lake Victoria Fishery Commission was noted. This Commission would promote, among other activities, collaborative research among riparian States for the management of the fisheries and sustainable use of the fishery resources. FAO regional projects also provide useful opportunities for consultations on specific research topics and preparation of research projects.

52. The Committee agreed with the following major research challenges identified by SIFR: (1) resource conservation and management including stock assessment, (2) fish productivity (aquaculture), (3) product conservation and improved utilization of existing harvests, and (iv) human linkages, socio-economics and policies. The Committee stressed that more research was also required on environmental impacts. In this connection it was recommended that FAO should broaden the priorities based on further consultations and approach the Global Environmental Facility of the World Bank/UNDP for financial assistance to address environmental concerns which had implications for fisheries.

53. The Committee was informed of the many initiatives taken by members and donors in support of the SIFR initiative. In particular, the Committee noted the relevance of the new DR. FRIDTJOF NANSEN project supported by Norway, the BDRM project (Base de Données Régionale Maritime) aiming at the development of a regional maritime database and decision support system in West Africa, the EEC Science and Technology for Development Programme (STD3), the FAO/DANIDA Training Course in Stock Assessment, as well as the training course in Data Handling for Tropical Fisheries Management at the International Agriculture Centre, Wageningen, the Netherlands.

54. The need for action to provide specialized training for research workers from developing countries was widely recognized as was the need to ensure better access to research information and scientific and technical publications. In this context, the refocusing of Aquatic Sciences and Fisheries Abstracts (ASFA) on developing countries was welcomed. The use of electronic

databases, such as the database developed by ICLARM in collaboration with FAO and others, modern information technology, and analytical and modelling tools were critical to strengthen research capabilities in developing countries. The research programmes of developing countries were recognized as being essential to their being able to undertake the management tasks necessary to ensure sustainable exploitation of their resources.

55. It was suggested that FAO should cooperate with Unesco in establishing appropriate education programmes in ocean science.

(c) High seas fishing

56. The Committee considered documents COFI/93/6, COFI/93/Inf.8, COFI/93/Inf.9 and COFI/93/Inf.11 under this agenda item. It complimented FAO for organizing, in close cooperation with UN/DOALOS, the Technical Consultation on High Seas Fishing held in Rome in September 1992. The Committee recognized the useful role the Consultation had played in elaborating the high seas issues to be addressed. It was noted that the report of the Technical Consultation was approved by consensus at the end of the meeting. The Committee recognized that some delegations, both at the time of the adoption of the report and subsequently, had expressed concern about some aspects of it. The Committee expressed satisfaction that FAO would contribute in a technical and scientific capacity to the forthcoming United Nations Conference on Straddling Stocks and Highly Migratory Fish Species. It was further noted with satisfaction that FAO would assist the Secretariat of the Conference on technical issues.

57. The Committee emphasized that the 1982 Convention on the Law of the Sea provided the framework within which management mechanisms for high seas fishing needed to be formulated. It was reiterated that sustainable resource use must be the basic guiding principle for the management of high seas fishing and that consistent management arrangements should be applied to stocks over their entire distribution ranges. Furthermore, the Committee agreed that management of high seas fisheries should be undertaken taking the whole ecosystem into account.

58. The difficulties caused by flagging of fishing vessels to avoid internationally agreed conservation and management measures and fair trade practices were highlighted as a major issue inhibiting management and the Committee welcomed the initiative taken to develop an agreement on the flagging of vessels fishing on the high seas. In this connection, the Committee agreed that flag States had a responsibility to control the activities of their flag vessels while engaged in high seas fishing.

59. With respect to the compilation and dissemination of high seas fisheries data, the Committee recognized the important role to be played by FAO. Moreover, it was considered appropriate and necessary that FAO should provide technical assistance to developing countries to enhance their research and training in monitoring, and means to carry out control and surveillance. This would enable them to better fulfil their duties and responsibilities concerning high seas fishing, particularly on stocks adjacent to their EEZs. Many delegations called for additional resources to be made available to the Fisheries Department for the provision of the required assistance.

60. The Committee endorsed the view that management of high seas fishing should, wherever possible, be undertaken on a regional basis through regional and sub-regional organizations and arrangements under the framework of UNCLOS. It was noted that these organizations would require additional technical and financial support from FAO and donors in order to strengthen their capacities to undertake these management functions.

61. The Committee underlined the importance of monitoring, control and surveillance for the management of high seas fishing. Some delegations pointed to the need to deploy transponders and other satellite tracking devices for this purpose. However, modalities for the implementation of appropriate measures required elaboration and development.

62. The desirability of developing national registers or records of fishing vessels capable of operating and/or authorized to operate on the high seas was endorsed by the Committee. Such registers or records were seen as an important component for the management of high seas fishing.

63. The Committee agreed that FAO should undertake a special programme of assistance to developing countries in high seas fishing, especially for small island countries, coastal States with a high potential to exploit highly migratory species, and countries with a high demand for fish and fishery products.

64. The Committee recognized that there remained a number of issues pertaining to high seas fishing on which there was presently no clear consensus, and it was acknowledged that these issues might need to be addressed within the context of the United Nations Conference on Straddling Stocks and Highly Migratory Fish Species.

(d) Conservation and rational utilization of living marine resources with special reference to responsible fishing

65. The Committee considered this item on the basis of document COFI/93/5. It was informed of the request by the FAO Council at its 102nd Session in November 1992 that proposals with regard to the content of an International Code of Conduct for Responsible Fishing and a time-frame for its adoption and implementation should be submitted for discussion by the Committee at the current session. The Council had also confirmed that the Code of Conduct should take into account the Declaration of Cancún, the provisions of Agenda 21 of the United Nations Conference on the Environment and Development and the outcome of the FAO Technical Consultation on High Seas Fishing. The Code of Conduct should be formulated within the framework of the provisions of the 1982 United Nations Convention on the Law of the Sea, as well as other appropriate international instruments.

66. The Committee unanimously agreed that a Code of Conduct for Responsible Fishing would be important for future sustainable fishery development and countries reiterated their full support of the Declaration of Cancún. The Committee expressed its appreciation to the Government of Mexico for the efforts made in this connection since the Nineteenth Session of COFI in April 1991. It noted with satisfaction the progress achieved during this short period of time.

67. The Committee advised that the Code of Conduct should have an encompassing umbrella of general principles which would provide the framework for the detailed guidelines on the issues to be covered.

68. It was proposed that the thematic areas for which guidelines should be developed as follows:

- Fishing Operations
- Fishery Management Practices
- Fair Trade Practices
- Aquaculture Development
- Integration of Coastal Fishing in Coastal Area Management
- Fishery Research

Each of these will include, as required, references to pertinent legal instruments, internationally agreed standards, technical guidelines and codes of practice. The Committee stressed the importance of close consultation between Departments of FAO concerned, as well as with relevant international, regional organizations. It noted that the active participation of Member Governments, governmental and non-governmental organizations, and experts will be sought in the preparation of the Code.

69. Highest priority was accorded to the guidelines on fishing operations. There were differences of opinion whether this section should have separate parts on fishing in EEZs and on high seas fishing. It was further agreed that there are factors relating to management measures common to both fisheries, but also some aspects where they differ. It was agreed that the outcome of the UN Conference on Straddling Stocks and Highly Migratory Fish Species would provide further guidance on this matter.

70. Guidelines on fisheries research were given lowest priority in the preparation of the Code of Conduct. The Committee was informed that the guidelines on fishery management practices would require considerable time to prepare, although guidelines on small-scale fisheries management could be given some priority. With regard to the guidelines on aquaculture development, the Committee agreed that, having regard to the many regional differences which exist and the widely differing systems employed, these guidelines should contain the minimum requirements. As to the guidelines on the integration of coastal fisheries in coastal area management, the Committee learned that work on the preparation of these had already started, in cooperation with other organizations, and was progressing well.

71. The Committee suggested that the guidelines or criteria on fair trade practices consistent with the rules of GATT should cover the entire post-harvest field, i.e. processing, addition of value, marketing and quality assurance including standards developed by the Codex Alimentarius and the International Organization for Standardization (ISO). It stated that a separate international legal instrument on the conduct of fishery research vessels operating in the waters of States other than those of the flag State and on the high seas, would not be required. The Committee recommended that socio-economic aspects should be duly taken into consideration when formulating guidelines.

72. The Committee agreed that in principle the Code of Conduct would be implemented on a voluntary basis and it should not foresee any coercive measures. The Committee noted, however, that parts of the Code or its Annexes may well be used in the promulgation of national fishery laws and regulations as well as bilateral and multilateral agreements.

73. The Committee expressed general satisfaction with the proposed time-frame for the preparation of the Code, which envisaged first drafts of the General Principles, of the Guidelines on Fishing Operations, and those on Fair Trade Practices, Aquaculture Development and Integration of Fisheries in Coastal Area Management to be available at its next session. The Committee noted that the time-frame would also be dependent on available financial resources. It urged that sufficient flexibility be maintained to allow proper preparation and consultation at national level.

74. Several delegations expressed the importance of the marking of fishing vessels as well as fishing gear as part of the Code of Conduct for Responsible Fishing. However, it was noted that, in some cases, practical problems were encountered in administering and enforcing marking of

fishng gear. The draft Standard Specifications on the Marking of Fishing Gear should therefore be reviewed again before being incorporated in the Code of Conduct.

75. Delegations and the Observer of the Holy See emphasized the importance of the safety of life at sea, as well as related education and training. The Code of Conduct for Responsible Fishing should cover these aspects, in particular, for the safety of fishing operations carried out by small craft as used in some fisheries, which are not covered by the Protocol to the Torremolinos International Convention on Fishing Vessels' Safety.

76. At the request of a number of countries, the Committee heard about the progress and achievements reached under the International Agreement of La Jolla, concerning the conservation and management of tuna and dolphin in the tropical eastern Pacific, in the course of an address by the Director of Research Department of the I-ATTC. The Committee listened to the report and praised the success achieved by the programme.

(e) Flagging of fishing vessels

77. In accordance with the request of the 102nd Session of the FAO Council, November, 1992, the Committee considered document COFI/93/10, Flagging of Vessels Fishing on the High Seas, which contained the draft text of an international "Agreement on the Flagging of Vessels Fishing on the High Seas to Promote Compliance with Internationally Agreed Conservation and Management Measures". This draft was drawn up by the Secretariat with the help of a small informal group of Experts invited by FAO. This group had met in Rome from 1 to 5 February 1993. During preliminary discussions, attention was drawn to the fact that due to the short period of time the document was available before the session of COFI, it had not been possible for many delegations to consult with appropriate authorities in their countries in order to review the draft agreement fully. The Committee decided to form an open-ended working group to operate in parallel with Plenary to carry out a general debate on the issue and review the draft agreement, bearing in mind the decision of the Council that this matter should be dealt with as a matter of urgency.

78. The Chairman of the working group, Mr. C. Camacho Gaos (Mexico), in making an oral report to the Committee, pointed out that while substantial progress had been made, and the text had been reviewed, it had not been possible to finalize the text of an agreement. The group therefore considered it necessary that the draft Agreement, as well as comments thereon, be reviewed by a technical meeting before a submission is made to the Council and eventually to the Conference for approval in accordance with the provisions of Article XIV of the FAO Constitution. The Secretariat had prepared a working paper taking into consideration the discussions in the working group. This group had recommended that its informal working document should be reviewed by FAO members and that their comments should be made available to the Secretariat by mid April 1993; the Secretariat should circulate any comments received to all members.

79. The Chairman of the working group also recommended that as far as possible there should be continuity with regard to participation in the proposed technical meeting.

80. The Committee complimented the progress made by the Working Group and agreed that the elaboration of an International Agreement on the Flagging of Vessels Fishing on the High Seas should be kept on a fast track. While reiterating that flagging issues would be among the issues which would be covered by the proposed Code of Conduct on Responsible Fishing, the Committee emphasized the importance of elaborating them, without delaying other components of the Code

of Conduct. In this respect, some countries expressed concern that the urgency given to flagging might hinder progress on the overall development of the Code of Conduct as a package.

81. The Committee encouraged the Director-General to explore the possibility of convening a technical consultation with a view to finalizing the draft Agreement. The Committee suggested the first week of the June Session of the Council, or the week immediately prior to that session, as a possible time. The Committee recognized that, since the convening of such a technical meeting had not been provided for in the Programme of Work and Budget for this biennium, the technical meeting could only be held if sufficient extra-budgetary funds could be found. In this connection, it was suggested that all possible donors, including OECD members, should contribute to both the operational costs of the meeting and to the financing of attendance from developing countries.

82. The Committee recommended that in addition to the document elaborated as a result of the discussions of the working group and the comments provided by FAO members, the Secretariat should prepare a document summarizing available information and data relating to the problem of flagging and reflagging of fishing vessels, and the problems caused by such practices in the conservation and management of living marine resources. It recommended also that this document should be submitted to the technical meeting envisaged in paragraph 81.

#### **MEDIUM-TERM PERSPECTIVES IN FISHERIES 1994-99 AND THE WORK OF FAO IN FISHERIES DURING 1994-95**

83. The Committee considered jointly the Medium-Term Perspectives in Fisheries (Document COFI/93/8) and the proposals for the Work of FAO in Fisheries during 1994/95 (Document COFI/93/9).

84. In addressing the medium-term perspectives, the Committee recognized that the purpose of its discussion was to provide a contribution to the preparation of the Organization-wide medium-term plan covering the period 1994/99, as directed by the FAO Conference.

85. The Committee endorsed the objectives and longer term priorities outlined in the document, which adequately reflected the challenges faced by the members of the Organization in the area of fisheries and the Organization's capacity to assist them in tackling the most pressing fisheries problems.

86. Several delegations, however, stressed the importance of defining priorities amongst the list of nine objectives given in document COFI/93/8. The development of an international Code of Conduct on Responsible Fishing and the promotion of sustainability in worldwide fisheries, were highlighted.

87. The Committee noted with satisfaction that the particular areas of additional attention had been developed on the basis of UNCED Agenda 21, the International Conference on Responsible Fishing, the Technical Consultation on High Seas Fishing and the FAO/WHO International Conference on Nutrition.

88. Some delegations expressed concern at the possible duplication of effort with other agencies on some specific environmental issues. However, the Committee was assured that FAO took the lead only in those areas falling within its mandate or as mutually agreed with other agencies and that much of the work on environmental issues was undertaken in close collaboration with agencies

such as UNEP, the World Bank and IOC; as an example, three projects were currently being executed by FAO on behalf of UNEP.

89. With regard to the priorities of the main technical programmes to achieve the medium-term objectives, the Committee identified the following as having a particularly high priority: fisheries information including adequate monitoring of the status of the stocks; assistance in policy advice and planning for sustainable fisheries; marketing and quality assurance; and inter-country cooperation through FAO regional fishery bodies.

90. The Committee reaffirmed the unique role of FAO as a worldwide repository for information on fisheries, and supported the continued development of data bases for holding and disseminating this information. The Committee noted the need to provide the extra-budgetary resources required, in order that the Organization be able to deal with the increased work load which might fall upon FAO as a result of its involvement in a possible intergovernmental agreement on reflagging.

91. The Committee stressed the importance of FAO continuing to coordinate its activities with those of other UN agencies, NGOs and other organizations concerned with marine affairs. In this context, the Committee also noted the valuable role of FAO in supporting regional fishery organizations and economic groupings interested in fisheries.

92. The Committee emphasized the importance it attached to increased attention being paid to the provision of policy and management advice to developing countries. It also expressed the need for FAO to continue to bring its multidisciplinary competence to bear on fishery management problems.

93. Some members observed that they would have liked to see more focused objectives, and quantitative indicators against which to measure the achievements, included in the document in order to facilitate priority setting by the Committee.

94. Referring to Document COFI/93/9, the Committee noted the particularly difficult context which had influenced the formulation of budget proposals for the 1994/95 biennium and had led the Director-General to reluctantly propose reduced overall allocations for FAO's technical and economic programmes, including the Major Programme 2.2 Fisheries. Among other factors, the difficulties experienced by many Member Nations in meeting their financial obligations had been taken into account, leading to the Director-General framing his proposals without any overall net programme growth. Some delegations were not satisfied that sufficient data concerning the setting by FAO of its priorities for the Organization as a whole had been provided to justify the disproportionately large reduction proposed for the Fisheries Programme.

95. The Committee generally supported the activities proposed for implementation in 1994/95. Some delegations were concerned with the implications of the insertion of areas of additional attention on activities to be undertaken in this biennium, in view of the likelihood of there not being any increase in resources.

96. The Committee noted that reductions were envisaged in the following areas and for the following reasons: under Sub-programme 2.2.2.1, the need for FAO assistance in stock assessment in inland waters had considerably declined and a series of technical aquaculture documents had been completed; under Sub-programme 2.2.2.2, the work done in marine stock assessment would now be done in a manner requiring less funds; under Sub-programme 2.2.2.3, the creation of some databases had been completed; under Sub-programme 2.2.2.4, fewer resources will be required in

support of the Regional Market Information Network as these services become independent intergovernmental organizations; under Sub-programme 2.2.3.1, less emphasis would be given to global perspective studies on the world fisheries situation following the completion of a major study during the current biennium. The need for more work on the interaction between marine mammals and fisheries was noted.

97. It was noted with satisfaction that the withdrawal of direct intervention by FAO in some instances was because national capability had been established. However, this did not mean that close contact or collaboration had ceased but that it had been replaced by a genuine strengthening of information exchange, to mutual benefit.

98. The Committee appreciated the constant efforts of FAO to benefit from co-financing and extra-budgetary support for specific activities.

99. Some delegations commented on the lack of more precise information, for them to be able to assess the full scope of proposed activities and whether they corresponded fully to areas of FAO's comparative advantage. The Committee was advised that its present discussions were part of a long consultative process and that the summary nature of the document before it, in keeping with Conference directives, did not permit more comprehensive information to be provided at this stage. The Committee stressed its expectation that this information would be available to the membership before it is asked to pronounce definitively on programme choices and activities.

100. While fully recognizing the financial constraints which had prevailed over the formulation of proposals for the 1994/95 biennium, the Committee stressed earlier expectations of strengthened FAO's fisheries activities. The current and future demands placed on FAO's fishery programme made such strengthening even more imperative. The Committee therefore expressed the hope that the reduction in resources for Major Programme 2.2 Fisheries could be reversed in the formulation of the full Programme of Work and Budget.

101. The Committee agreed that the fisheries proposals, and its own comments, provided a sound basis for the elaboration of the full Programme of Work and Budget of the Organization in fisheries for 1994-95.

#### **ANY OTHER MATTERS**

102. The observer from the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) informed the Committee on measures which CCAMLR had taken to conserve and manage the living marine resources of the Antarctic. These included measures to minimize the risk to resources never fished or very little fished and about which minimal or no scientific data are available. The Commission had also adopted precautionary catch limits on the krill fishery in the southern Atlantic and the southern Indian Oceans. These approaches have proven useful in the Southern Ocean in managing new and developing fisheries.

#### **DATE AND PLACE OF THE TWENTY-FIRST SESSION OF THE COMMITTEE**

103. It was agreed that the Committee should meet in Rome in the spring of 1995. The exact date would be determined by the Director-General in consultation with the Chairman.

#### **ADOPTION OF THE REPORT**

104. This report was adopted on 19 March 1993.

## APPENDIX A

### Agenda

1. Opening of the Session
2. Adoption of the agenda and arrangements for the Session
3. Election of Officers
4. Review of FAO's programmes in fisheries (1991-92)
  - 4.1 Regular Programme
  - 4.2 Field Programme
5. Special issues
  - 5.1 World fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea
  - 5.2 Conservation and rational utilization of living marine resources with special reference to responsible fishing
  - 5.3 High seas fishing
  - 5.4 Fisheries research needs of developing countries
  - 5.5 Flagging of fishing vessels
6. Medium-term perspectives in fisheries 1994-99 and the work of FAO in fisheries during 1994-95
  - 6.1 Medium-term perspectives in fisheries 1994-99
  - 6.2 The work of FAO in fisheries during 1994-95
7. Any other matters
8. Date and place of the Twenty-first Session
9. Adoption of the Report

APPENDIX B

List of Delegates and Observers

**MEMBERS OF THE COMMITTEE**

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Secretary:	P. González Alberdi
Assistant Secretary:	J.J. Kambona
Secretary, Drafting Committee:	D. Insull
Administrative Assistant (Meetings):	Janet C. Webb

## APPENDIX C

### List of Documents

COFI/93/1      Provisional annotated agenda and timetable

2      Review of FAO's programmes in fisheries (1991-92) - Regular Programme

3      Review of FAO's programmes in fisheries (1991-92) - Field Programme

4      World fisheries ten years after the adoption of the 1982 United Nations Convention on the Law of the Sea

5      Conservation and rational utilization of marine living resources with special reference to responsible fishing

6      High seas fishing

7      Fisheries research needs of developing countries

8      Medium-term perspectives in fisheries 1994-99

9      The work of FAO in fisheries for 1994-95

10     Reflagging of fishing vessels and fisheries management

COFI/93/Inf.1      Provisional list of documents

Inf.2     Provisional list of delegates and observers

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Inf.7     Declaration of the International Conference on Responsible Fishing, Cancún, Mexico, 6-8 May 1992

Inf.8     UNCED and its implications for fisheries

Inf.8 Corr.

Inf.9     Report of the Technical Consultation on High Seas Fishing, Rome, 7-15 September 1992

Inf.10    Summary of Study on International Fishery Research (SIFR)

COFI/93/Inf.11 Report of the Nineteenth Session of the Committee on Fisheries, Rome, 8-12 April 1991

Inf.12 Report of the Expert Consultation on the Marking of Fishing Gear, Victoria, Canada, 14-19 July 1991

Inf.13 EEC and Member States: Declaration of competence and the right to vote

Inf.14 Keynote address by Gunnar Saetersdal: Fisheries research and fisheries management, historical perspectives and some current challenges

## APPENDIX D

### Opening Statement of the Director-General <sup>1/</sup>

Madam Chairperson,  
Excellencies,  
Distinguished Delegates and Observers,  
Ladies and Gentlemen,

#### ***WELCOME***

It is with great pleasure that I welcome you on behalf of the Director-General to the Twentieth Session of the Committee on Fisheries. I also wish to extend a particular word of welcome to Their Excellencies the Ministers of Fisheries of Angola, Congo, Mozambique, Sri Lanka and the Russian Federation, and the Vice-Ministers of Chile, Latvia, Lithuania and Mexico who are honouring this Session with their presence, as well as to Dr Gunnar Saetersdal, the eminent Norwegian fishery scientist who has kindly accepted the Director-General's invitation to deliver a keynote address.

I have the honour to present to you the statement of the Director-General.

#### ***INTRODUCTION***

Madam Chairperson  
Excellencies,  
Distinguished Delegates and Observers,  
Ladies and Gentlemen,

Your presence and that of the numerous delegations here today is a continued affirmation of the importance attached by your governments and organizations to the work of this Committee. It has earned a unique reputation as an international forum for the regular examination of major technical and policy issues confronting world fisheries and for the consideration of further actions to promote the contribution of the sector to human nutrition and economic and social progress.

Before turning to the specific issues before you, I would first like to introduce to you the recently appointed senior members of the FAO Fisheries Department:

- Dr Wolfgang Krone, well known to the members of the Committee, who has been designated in April 1992 as Assistant Director-General *ad interim* of the Department upon the departure of Dr Armin Lindquist; and
- Mr Paulino González Alberdi, who has been appointed as the new Secretary of COFI and Assistant to the ADG upon the retirement of Dr Deb Menasveta.

## MAJOR EVENTS

Madam Chairperson,

The agenda proposed for this session of the Committee is exceptionally full, challenging and wide-ranging. You will have noted from the documents before you, that your Committee's emphasis on the necessity to promote the conservation and rational utilization of living marine resources as well as promoting environmental protection in relation to sustainable development of fisheries have been underlined by the events which have taken place since your last session of COFI.

In this connection, I do not need to stress the close relationship between the concept of responsible fishing and the sustainability of development, as the former is a prerequisite for the latter. You will no doubt recall that the concept and conditions for sustainable development in fisheries was debated in depth at the Ninety-fifth Session of the FAO Council in June 1989 during which it was stated that "... the rising demand for fish could be met by managing the fishery resources in a rational and timely manner, by seeking utilization of fish through the reduction of post-harvest losses, including by-catch discards and by accelerating aquaculture development". The Council had also on that occasion urged FAO to progressively translate the concept of sustainable development into practical and operational policies and programmes, taking into account that overcoming poverty is a prerequisite for sustainable development.

As a result, the high priority given to ensuring both conservation of marine resources and sustainable development in fisheries, has generated intense activity not only within FAO but also in the international fisheries community, with our Organization playing a leading role.

Firstly, I would like to mention the International Conference on Responsible Fishing, which was held in Cancún from 6 to 8 May 1992. This Conference was organized by the Mexican Government whose President, H.E. Carlos Salinas de Gortari, fully shared FAO's and COFI's concerns on the need to ensure the conservation and rational utilization of living marine resources, including the promotion of responsible conduct of fishing operations.

I take this opportunity to again express my appreciation through you, Madam Chairperson, to the Government of Mexico for having organized such an important Conference, to which FAO was happy to contribute in its preparations. As you know, the Conference's achievement was the adoption of the Cancún Declaration which was submitted to UNCED and which played a major role in the discussion of this issue in Brazil.

The Declaration was subsequently endorsed by the 102nd Session of the FAO Council which recommended that the Organization take the necessary steps to prepare an International Code of Conduct for Responsible Fishing, in consultation with international Organizations, taking the Declaration into account. Such a Code should take into account all biological, environmental, socio-economic, technological and commercial aspects of marine fisheries and coastal aquaculture. An outline for this future Code of Conduct has been prepared by the Fisheries Department and is submitted for your consideration. I hope that the outcome of your discussions will give me the necessary guidelines for the further elaboration of the draft of the Code. However, because of the many factors that are involved in the responsible practice of fisheries, we will try to prepare for the next Session of your Committee a first draft of the main part of the Code, including the Guidelines for the Conduct of Fishing Operations and its annexes.

Secondly, I would like to mention the active participation by the Fisheries Department in the preparatory process of UNCED and the Conference itself. This included the elaboration of basic documents which were fundamental for the discussions on the environmental implications of fishing activities in the open sea and coastal areas and on the interrelation of these activities with other uses of the same zones.

In this connection, I wish to mention two related issues: (i) high seas fishing; and (ii) flagging of vessels fishing on the high seas.

You will recall that at the Nineteenth Session your Committee had recommended that FAO convene in September 1992, a Technical Consultation on High Seas Fishing in collaboration with the UN Division of Ocean Affairs and the Law of the Sea (DOALOS). The recommendations stemming from this Technical Consultation are before you for your consideration.

Consideration of high seas issues was also prominent in the United Nations Conference on Environment and Development (UNCED). Chapter 17 of Agenda 21 dealing with the oceans, includes a special section on the sustainable use and conservation of living marine resources of the high seas. National and international management and conservation of straddling stocks and highly migratory species were highlighted as being particularly important and requiring attention. At UNCED it was agreed that States should convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions on straddling fish stocks and highly migratory fish stocks of the 1982 Convention on the Law of the Sea. The conference, drawing, *inter alia*, on scientific and technical studies by FAO, should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of improving cooperation in fisheries among States, and formulate appropriate recommendations. The work and the results of the conference should be fully consistent with the provisions of the 1982 Convention, in particular the rights and obligations of coastal States and States fishing on the high seas. I wish to assure you that we intend to cooperate actively with the United Nations Secretariat to ensure the success of this conference.

With regard to the flagging of vessels fishing on the high seas, I wish to recall that the issue was raised at the International Conference on Responsible Fishing held in Cancún, at UNCED in the framework of Agenda 21 and subsequently at the 102nd Session of the Council, which agreed that the issue of reflagging of fishing vessels into flags of convenience to avoid compliance with agreed conservation and management measures, should be addressed immediately by FAO with a view to finding a solution which could be implemented in the near future. It is with pleasure that I submit for your consideration and advice the outcome of an informal expert group meeting convened by FAO in February 1993. Your special attention is drawn to the draft text of the "Agreement on the Flagging of Vessels Fishing on the High Seas to Promote Compliance with Internationally Agreed Conservation and Management Measures" on which we would appreciate your comments and suggestions for onforwarding to the 103rd Council Session and the 27th Conference Session.

#### **REVIEW OF CURRENT PROGRAMME OF WORK AND PROPOSALS FOR THE 1994-95 BIENNIUM**

Let me now turn to other items on your agenda.

One of your tasks this week will be the review of the implementation of the Programme of Work of FAO in Fisheries during the present biennium. I am convinced that this review will confirm the progress achieved in implementing the recommendations of your last Session as well as the decisions of our Governing Bodies.

However, I must make reference to some negative developments which have occurred over the last two years and which are beyond the control of the Organization. In fact, I refer to the decline in the financial support to FAO's Field Programme in Fisheries and, in particular, to the five Programmes of Action, approved by the 1984 World Fisheries Conference and extended in 1989 for another period of five years by recommendation of your Committee. Unfortunately, the extra-budgetary contribution from donors to the implementation by FAO of the activities contemplated in these Programmes, which attained its maximum in 1989 with US\$ 18 million, decreased to US\$ 15.5 million in 1991 and to a little more than US\$ 13.4 million in 1992, that is to say, a reduction of more than 25 percent in nominal terms and much more in real terms, compared to 1989. A further decrease is forecast for 1993 according to current available information.

Similar difficulties in funding are faced by the rest of our Field Programme, that is, by projects executed at national level and in most cases this is due to the changes in the modalities of project execution by UNDP. Nevertheless, I should like to reiterate my appreciation to those agencies and donors which have supported these Programmes since their approval by the World Fisheries Conference. The scope and orientation of the many Special Action Programmes operated in the Organization are currently being reviewed, and I will submit my proposals for streamlining them to the next Conference. It is considered that the Fisheries Programmes could be merged into one Special Action Programme for Responsible and Sustainable Fisheries.

With regard to the Programme of Work proposed for the Fisheries Department in the 1994-95 biennium, I do not need to emphasize that the activities presented fall within the framework of the long-term objectives contained in the Strategy for Fisheries Management and Development, approved by the 1984 World Fisheries Conference, and of the medium-term objectives of FAO in fisheries approved by the Twenty-sixth Session of the FAO Conference in 1991. These medium-term objectives have been revised to reflect the actual situation of world fisheries and the new tasks in fisheries proposed for the Organization. After your discussion of these revised objectives, they will become an integral part of the Medium-term Plan of the Organization for the period 1994-99, which I shall submit for the consideration of the Twenty-seventh Session of the Conference in November.

As already mentioned, I have given high priority to the promotion of the sustainability of world fisheries, including the integration of the fisheries sector into management policies of coastal areas, and to the restoration of resources to levels consistent with the UN Convention for the Law of the Sea and with the recommendations of UNCED, as well as to the elaboration of a Code of Conduct for Responsible Fishing. Of course, we shall take into account not only the strict financial aspects of the sustainability of fisheries but, as recognized by our Council, also the social aspects of the fishery activities, and especially the role of fish as food, particularly in those less developed countries where the poorest strata of the population have little or no access to other forms of animal protein. In fact, we would not accomplish our mandate if we forgot the role that the Organization must play in the fight against poverty and hunger as one of the preconditions to ensure sustainable development.

In this context, the Programme will also continue to give high priority to key elements of ongoing activities which, *inter alia*, include: fishery policy and management advice; small-scale fisheries and community development, including training and credit; fishery data and information; promotion of the role of women in fisheries; and fish trade information and technical advisory services. An area of increased attention will be the promotion of applied fishery research at national and regional levels. For this purpose, greater emphasis and closer coordination of our significant activities in various research disciplines in support of fishery development and management will be aimed at. FAO has always played a leading role in promoting fishery research, and we wish to contribute to the process of defining applied fishery research needs in developing countries and of formulating technical assistance proposals in this field, particularly through the network of regional fisheries bodies, which will also have to play a vital role in the implementation of regional research programmes.

### **CONCLUSION**

Madam Chairperson, Distinguished Delegates and Observers, the enormous tasks that the Organization is committed to undertake in the field of responsible and sustainable fisheries during the next biennium, as well as the priority to technical programmes which has always been given by the FAO Conference, would fully justify an increase in the resources allocated to Major Programme 2.2: Fisheries. However, I regret that the present circumstances do not permit us to envisage an overall programme growth in the next Programme of Work and Budget. I am therefore unable to propose on this occasion an increase in the level of the resources allocated to the Major Programme. I hope that in spite of this, the Committee will understand that my proposals have been based on a careful evaluation of priorities and they include activities in all important priorities arising from events over the past few years.

At a time of declining regular programme resources for fisheries programmes, we must rely to a greater degree than ever before on extra-budgetary resources to enable FAO to assist Member Nations to sustainably develop their fisheries resources. I count on your understanding and support.

I wish you success in your deliberations.

## APPENDIX E

### Address of the Chairman, Mr. Rafael Conde de Saro

Mr. Deputy Director General

Mr. Assistant Director General of Fisheries

Distinguished delegates,

It is for me an honour to have been elected to chair this Session of the FAO Committee on Fisheries and, on behalf of Spain, I should like to thank all those who made it possible. I hope that with the collaboration of all the delegates and the wise counsel of FAO we shall accomplish the task that is before us.

The excellent performance of the outgoing chairperson is our best guarantee of success.

All the items before us are important and some of them are particularly delicate. I would like, in particular, to draw the committee's attention to the challenge that is before us to agree on satisfactory solutions for the definition and conduct of responsible fishing.

With your permission, and given the importance of the issue, I would like to say a few words on responsible fishing as a concept, a process and an obligation.

#### 1. Responsible Fishing as a Concept.

Looking back, we see that the concept of responsible fishing was introduced at the 19th Session of FAO's Committee on Fisheries, where it was acknowledged that the Organization had an essential role in promoting an international agreement on the responsible conduct of fishing operations, and that its technical efforts could be translated into guidelines for a code of conduct for responsible fishing, taking into account all the technical, socio-economic and environmental factors involved.

And here, we have the first indication of what responsible fishing implies: the almost symbiotic relationship with a code of conduct and the need to bear in mind the factors I have just mentioned.

In an attempt to move forward along these lines, the Government of Mexico, in close collaboration with FAO, organized the International Conference on Responsible Fishing. From this Conference emerged the Cancún Declaration on Responsible Fishing, which represents a major achievement of international cooperation, in the quest for solutions to the many problems confronting this activity, to which our attention was drawn during the Second Conference on Ministers of Fisheries, held in La Toja, Spain in 1991.

The Cancún declaration, well known to you all, outlines the major areas to be included within the context of responsible fishing and is a first step toward the shaping of the process.

#### 2. Responsible Fishing as a Process

The Declaration of Cancún agreed on ways to develop and put the concept into effect: the elaboration of a code of conduct, the declaration of the decade for responsible fishing, the

convening of an intergovernmental conference on high seas fishing and the consensus or agreement on trade measures within the context of GATT.

Another major international initiative, the UN conference on Environment and Development (UNCED), took place at about the same time. UNCED tackled an important aspect of international fisheries: straddling fish stocks and highly migratory fish species, and called for an intergovernmental conference under UN auspices to deal with these issues.

This new initiative now has an obvious bearing on what has been called responsible fishing. Indeed, for obvious economic, logistical reasons, and for the inherent synergetic effects, FAO's work on responsible fishing, which formed the basis for the technical consultation held in September last year was to be incorporated into the preparations for this conference. However, it would appear that Cancún's recommendation to hold a conference on high-seas fishing has in fact lost momentum.

Given the similarity of the objectives pursued, it would be regrettable if we were unable to include all the initiatives currently proposed in a single process. In this context, the conference on straddling fish stocks and highly migratory fish species is a splendid opportunity to move forward on at least two crucial areas for the future code of conduct for responsible fishing: the strengthening and confirmation of the States' obligation to work together in conserving and exploiting marine resources; and the roles and functions that the multilateral fisheries bodies should and can fulfil.

In both cases the inclusion of these questions within the broader framework of responsible fishing based on the criteria of equity, interdependence and shared responsibility may be necessary to avoid confrontation and ensure that satisfactory solutions based on consensus and cooperation are found.

In this connection, the important achievement of FAO's technical consultation on high seas fishing should be reflected in the adoption of the conclusions of this consultation by this Committee.

Of course, the 20th Session of FAO's Committee on Fisheries will represent a new and further step toward the success of this process.

It is our task to determine the scope of the code of conduct, define its components, agree on and programme its implementation. This will not be easy, for, as I said earlier, the strength of the concept of responsible fishing, which covers so many aspects is, perhaps (and even though this may seem paradoxical), also its weakness : if we try to limit its scope for individual reasons or interests by dispensing with certain aspects, we may run the risk of finally achieving only a small fraction of its potential.

We should also strive to design a code of conduct that is closely associated with fisheries strictu sensu. To do so, we must be able to identify the areas which, although closely associated with fisheries, may have other dimensions, or form part of other processes.

We should not eliminate essential areas, but rather establish a conceptual framework and more a manageable, yet coherent and synergetic structure for actions.

For this to be possible, we must redefine responsible fishing as an obligation.

### 3. Responsible Fishing as an Obligation

Every State that intends to be involved in fisheries must exercise this obligation, otherwise responsible fishing could never be achieved. Every state must personally assume this responsibility as no one can do so on its behalf.

Also the fishery sector of every country must also assume its responsibility with respect to the exploitation of living marine resources. It is not an easy task. It calls for greater awareness and increased control and surveillance. Basically the fisheries sector worldwide must realize once and for all that freedom of the seas is no longer possible, the reason perhaps being that the myth of inexhaustible marine resources has now been destroyed.

The survival of fisheries depends on the good management of fisheries resources. The fact that these resources are renewable is a point in their favour. A point against, is "the tide always rises" attitude. Neither mankind nor the fisheries sector can be allowed such a luxury. Once the groundwork has been laid for a conceptual framework for responsible fishing including the three aspects: concept, process and obligation, we would then have to see how it fits into the "reality" of the fisheries sector and how we meet our challenge to shape it and put it into effect.

A review of the fisheries sector points to four areas where clarification, strengthening and exercise of the responsibilities of the individual states, of the states in their capacity as members of an international community and of the fisheries sector are necessary.

Firstly, the material dimension of fishing is the fishing vessel. If the state holds the key to responsible fishing, it follows that the flagstate that can and must meet its obligations. If the flagstate is to be made accountable, transparency must be the watchword where the flag is concerned.

FAO 's efforts in drawing up an international flagging agreement are important and necessary. It is not a case of questioning the practice of reflagging, but of eliminating the element of convenience that this may imply.

The State's objective must be clear and irreproachable, that is to say that no State can allow unscrupulous individuals to use its flag to endanger fishery resources, or to query the obligations that the convention on the law of the sea imposes on it. Indeed, one State that indulges in irresponsible fishing could jeopardize the efforts of all the others.

Secondly, action should also be taken at the level of shipowners, captains and crews. Here, whatever measures we agree upon shall be subject to two limitations: one, of a legal nature; the limitations deriving from a constitutional or conventional state; and the other, practical: the possibility of actions taken outside national jurisdictions being successful.

Thirdly, there is the spatial aspect of fisheries. Here, of course, we must bear in mind that responsibility and control will go beyond former jurisdictional limitations and seek consistency through resource management and conservation policies. What is called for is the global approach recommended in the Cancún Declaration and by the FAO consultation, and solutions through cooperation, dialogue and international agreement. It is in this field too that it will be possible to test the validity, process and obligation of responsible fishing.

It is also absolutely necessary to unite efforts and avoid individual and confrontational approaches.

In conclusion, I would like to make one last comment: there is, although perhaps through different approaches, broad agreement concerning the problems facing world fisheries today. There is also an institutional framework at national or international level that limits or determines our capacity to act, be it at legal level, within the context of UNCLOS, at GATT level, and at environmental level through UNCED.

Contradictions may exist, but if we are honest and objective, we will admit that many are a direct consequence of too many unilateral approaches. It is not a question of trying to find individual solutions. On the contrary, the key lies in assuming at national as well as State and sector levels the obligation that is part and parcel of responsible fishing, and then exercising that obligation within the context of international cooperation.

## APPENDIX F

### Draft Agreement on the Flagging of Vessels Fishing on the High Seas to Promote Compliance with Internationally Agreed Conservation and Management Measures

#### INTRODUCTION

*The present commentary has been prepared by the Secretariat in an effort to reflect the views expressed and points raised during the sessions of the Working Group established by the Committee of Fisheries during its Twentieth Session held in Rome on 15-19 March 1993. Due to the limited time available, the commentary was not discussed by the Working Group itself. Governments that consider that their views have not been fully reflected in the commentaries, or have supplementary views, should communicate their views to the Secretariat by 15 April 1993. These views will be circulated to members of the Committee as a supplementary document, and both the present commentaries and the supplementary views will be submitted to any technical meeting convened to consider the draft Agreement. This of course does not in any way restrict the right of governments to make further comments or proposals at the time of the technical meeting.*

*The commentaries merely list comments or proposals made in the format of "a view was expressed that..." No attempt has been made to reflect the degree of support or otherwise that each comment or proposal received. In most cases different or opposing views were expressed. The commentaries should therefore be regarded merely as a listing of problems raised, rather than as the views of the Working Group as to the possible resolution of those problems. The expression "a view was expressed that", or "it was suggested that" should also therefore not be taken as implying that this was the view only of a single member of the Working Group.*

### **AGREEMENT ON THE FLAGGING OF VESSELS FISHING ON THE HIGH SEAS TO PROMOTE COMPLIANCE WITH INTERNATIONALLY AGREED CONSERVATION AND MANAGEMENT MEASURES**

#### Commentary:

*The view was expressed that the title of the draft agreement should refer to "applicable conservation and management measures" instead of "agreed" in order to be consistent with the expression used in the Cancún declaration and in Agenda 21. In addition, a view was expressed that the title of the draft Agreement should refer more to the Control or Recording of Vessels Fishing on the High Seas to promote compliance with Applicable International Conservation and Management Measures. It was also suggested that the title should refer to "flag state responsibility for vessels etc." or alternatively to "flagging or reflagging".*

## Preamble

The Parties to this Agreement,

Recognizing that, under Article 117 of the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas;

### Commentary:

*The view was expressed that the reference to precise articles in the UN Convention on the Law of the Sea should be replaced by references to the "relevant" articles of the Convention.*

*The following additional preambular paragraphs referring to the high seas were also suggested:*

*" Recognizing that, under Article 87 of the United Nations Convention on the Law of the Sea, the high seas are open to all States. Freedom of the high seas is exercised under the conditions laid down by the Convention and by other rules of international law.*

*" Recognizing that all States have the right for their nationals to engage in fishing on the high seas."*

*" Recognizing the right of all States to engage in fishing on the high seas, as established in Article 116 of the United Nations Convention on the Law of the Sea and, especially in the case of developing countries, to develop their fishing sector in accordance with their national policy."*

Mindful that the flagging of fishing vessels as a means of avoiding internationally agreed conservation and management measures for living marine resources seriously undermines the effectiveness of such measures;

Calling upon States which do not participate in international and regional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations and arrangements with a view to achieving compliance with internationally agreed conservation and management measures;

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas;

Further recalling the Declaration of Cancún, adopted by the International Conference on Responsible Fishing, also calls upon States to take effective action, consistent with international law, to deter reflagging of fishing vessels as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas;

Noting that the Council of the Food and Agriculture Organization of the United Nations (FAO) at its 102nd session recommended the conclusion, as quickly as possible, of an international agreement to prevent reflagging of fishing vessels for such purposes;

Conscious of the fact that in order to resolve the problem effectively, it is necessary to deal more broadly with the issue of flagging of fishing vessels, and the responsibility of States for the operation of fishing vessels entitled to fly their flag;

Recalling that flag States have responsibilities under international law for vessels flying their flag, including fishing vessels, support vessels and vessels engaged in transhipment of fish;

Commentary:

*The view was expressed that this preambular paragraph should be deleted. It was also suggested that the word "recalling" should be replaced with the words "Taking into account".*

Noting that the issues raised by the flagging of fishing vessels fall within the issues that would be covered as a part of the Code of Conduct for Responsible Fishing, as called for in the Cancún Declaration and now under consideration within the framework of FAO;

Commentary:

*The view was expressed that the words "flagging of fishing vessels" should be replaced with the words "flag state responsibility for fishing vessels". It was also suggested that the words "now under consideration within the framework of FAO" should be moved up to follow directly the words "Code of Conduct for Responsible Fishing". It was further suggested that the references to the Declaration of Cancún and the relationship between the present Agreement and proposed Code of Conduct on Responsible Fishing should be dealt with in separate preambular paragraphs.*

Desiring to conclude an international agreement within the framework of FAO, under Article XIV of the FAO Constitution;

Have agreed as follows:

Article I

DEFINITIONS

For the purposes of this Agreement:

- (a) "fishing vessel" means any vessel of 24 metres or more in length used commercially or equipped for commercial use for the purposes of catching fish or other living marine resources;

Commentary:

*The view was expressed that the phrase "used commercially or equipped for commercial use for the purposes of catching fish or other living marine resources" should be replaced by the phrase "used or intended for use for the purposes of the commercial exploitation of living marine resources". It was further indicated that references to the length of the vessels could be more appropriately placed in Article II. A view was further expressed that it should be made expressly clear that this definition would not include support vessels. The new definition could then read as follows:*

- " (a) *"fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources [but shall not include support vessels and vessels engaged in the transshipment of fish];"*
- (b) "length" means the length as defined in the International Convention on the Tonnage Measurement of Ships, 1969;

Commentary:

*The view was expressed that, instead of a mere reference to the Convention of 1969, the complete definition used in that convention should be quoted as follows:*

- " (b) *"length" means 96 per cent of the total length on a water line and 85 per cent of the least moulded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;"*
- (c) "internationally agreed conservation and management measures" means measures to protect, conserve or manage one or more species of living marine resources that are adopted, approved or agreed in accordance with international law as reflected in the 1982 United Nations Convention on the Law of the Sea and, in particular, such measures adopted or approved by international or regional organizations, subject to the rights and obligations of their members;

Commentary:

*The view was expressed that the paragraph should read as follows:*

- " (c) *"applicable international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted, approved or agreed in accordance with the principles of international law set out in the 1982 United Nations Convention on the Law of the Sea, by global, regional or subregional fisheries organizations, subject to the rights and obligations of their members, or by other international agreements;"*

*It was also suggested that the words "and, in particular" in the original text could be replaced by the words "such as, among others".*

(d) "register" with respect to fishing vessels, means a record of fishing vessels, in which are recorded pertinent details of the vessel. It may constitute a separate record for fishing vessels or form part of a general record of vessels;

Commentary:

*The view was expressed that the words ""register" with respect to fishing vessels, means a record of fishing vessels," should be replaced by the words ""record of fishing vessels" means a list of fishing vessels,"*

(e) "bareboat charter" means a contract for the lease of a vessel, for a stipulated period of time, by virtue of which the lessee has complete possession and control of the vessel, including the right to appoint the master and crew of the vessel, for the duration of the lease;

Commentary:

*The view was expressed that the words "in accordance with the laws of each country" should be inserted after the words "stipulated period of time".*

(f) "State" includes any regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, and "vessels entitled to fly its flag" or "vessels entitled to fly the flag of a State" includes vessels entitled to fly the flag of a member State of a regional economic integration organization;

Commentary:

*The view was expressed that, for the sake of clarity, the sentence "in relation to a regional economic integration organization means" should be inserted after 'flag of a State' so that the paragraph would read as follows:*

*" (f) "State" includes any regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, and "vessels entitled to fly its flag" or "vessels entitled to fly the flag of a State", in relation to a regional economic integration organization, includes vessels entitled to fly the flag of a member State of a regional economic integration organization."*

*It was also suggested that the definition could be shortened to read as follows:*

*"vessels entitled to fly its flag" and "vessels entitled to fly the flag of a State", includes vessels entitled to fly the flag of a member State of a regional economic integration organization."*

Commentary:

*The following further definitions were also suggested:*

- " (g) "Certificate of deletion" means a certificate issued by, and bearing the original signature of, a duly authorized official of the State of registry certifying that a vessel has been deleted from the register of that State."
- " (h) "Port State" means a State in whose port or off-shore terminal a vessel is voluntarily present, such vessel being one that does not fly the flag of that State and being one which is believed to have engaged in activities in violation of applicable international conservation and management measures."
- " (i) "Regional economic integration organization" means an organization constituted by sovereign States which has competence in respect of matters covered by this Agreement and has been duly authorized, in accordance with its internal procedures, to accept this Agreement.

*In this context it was also pointed out that the above definition of regional economic integration organization should perhaps be brought precisely into line with the definition already contained in Article II(4) of the FAO Constitution.*

## Article II

### APPLICATION

This Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.

Commentary:

*It was indicated that the original wording of the agreement was too restrictive as its application was limited to vessels above 24 metres in length. This criterion would not cover activities in particular areas in which no exclusive economic zones have been declared so far (e.g. the Mediterranean sea). It was therefore suggested that the original Article II should be replaced by the following:*

1. *Subject to paragraph 3 below, this Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.*
2. *Any fishing vessel of 24 metres or more in length shall be deemed to be used or intended for use for fishing on the high seas.*
3. *For any region in which exclusive economic zones or other zones of extended national jurisdiction over fisheries have not been generally declared by the coastal States bordering that sea, this Agreement shall not apply to fishing vessels of less than ... metres in length flying the flag of a coastal State concerned and operating exclusively in such region."*

*The following additional wordings were also suggested:*

" *This Agreement shall apply -*

- (i) to all fishing vessels that are used or intended for fishing on the high seas beyond the limits of exclusive economic zones;*
- (ii) to fishing vessels of .... metres or more in length, used or intended for use for fishing in regions where the coastal States have not yet declared exclusive economic zones, and flying the flag of such a coastal State;*

*OR*

- (ii) to all fishing vessels, over a length to be fixed within the framework of regional agreements, used or intended for use for fishing in regions where the coastal States have not yet declared exclusive economic zones, and flying the flag of such a coastal State."*

### Article III

#### REGISTRATION OF FISHING VESSELS

1. Each Party shall, for the purposes of this Agreement, maintain a register of fishing vessels entitled to fly its flag and shall take such measures as may be necessary to ensure that all fishing vessels to which this Agreement applies are entered in that register.

2. Any Party which deletes from its register a fishing vessel to which this Agreement applies shall promptly inform other Contracting Parties, through FAO, of such deletion.

#### Commentary :

*The view was expressed that for the sake of clarity the last part of the sentence should read as follows: "...inform FAO of such deletion, and FAO shall promptly inform the other Contracting Parties". New paragraph 2 would then read:*

*"Any Party which deletes from its register a fishing vessel to which this agreement applies shall promptly inform FAO of such deletion, and FAO shall promptly inform the other Contracting Parties".*

3. Where an owner or operator of a fishing vessel requests deletion of the vessel from the register of a Party, that Party shall refuse to delete the vessel from its register if, on the basis of enquiries it has made and all other information available, it has sufficient grounds to believe that the vessel will be used to undermine the effectiveness of internationally agreed conservation and management measures.

#### Commentary

*A view was expressed that the obligation placed on the Party requested to delete a vessel from its register should be less strictly stated. Another view was that the legal basis expressed in the draft Agreement for the action of refusing to delete a vessel from the register was too subjective. It was also suggested that the reference to deletion from the register should not be included in the draft Agreement. A*

*suggestion was also made that the words "or issue a certificate of deletion" should be inserted after the words "delete the vessel from its register".*

4. No Party shall register a fishing vessel to which this Agreement applies unless it:

- (i) is satisfied that the vessel, if previously registered in another State, has been deleted from the register of that State or will be so deleted co-terminously with its registration by the Party concerned; and
- (ii) has sufficient grounds to believe that the vessel will not be used to undermine the effectiveness of internationally agreed conservation and management measures.

Commentary:

*A view was expressed that the legal basis set out in the draft Agreement for the action of refusing to register a vessel was also too subjective. It was also suggested that the reference to refusing to register fishing vessels should not be included in the draft Agreement.*

5. In the case of a bareboat chartered fishing vessel:

- (i) each Party shall apply the provisions of this article, *mutatis mutandis*, provided that suspension of a bareboat chartered fishing vessel from a register shall satisfy those provisions pertaining to deletion of such a vessel from a register; and
- (ii) for the purposes of this Agreement, the charterer shall be considered the owner of the vessel during the period of the charter.

Commentary:

*The view was expressed that the words "If bare-boat chartered fishing vessels are registered under its national law" should be inserted at the beginning of the paragraph.*

Commentary:

*A view was expressed that the following further paragraph could appropriately be inserted at this point:*

*"6. Each Party shall take measures to ensure that fishing vessels entitled to fly its flag shall not be permitted to change their character as fishing vessels for the purpose of avoiding the measures provided for under this Article."*

## Article IV

### ALLOCATION OF FLAG

1. No Party shall accord any fishing vessel to which this Agreement applies the right to fly its flag unless it is satisfied, in accordance with its own national legislation, that there exists a genuine link between the vessel and the Party concerned.

Commentary:

*A view was expressed that the words "genuine link" should be deleted.*

2. (a) In determining whether or not there exists a genuine link for the purposes of paragraph 1, each Party shall give due weight to all relevant factors, including in particular:

- (i) the nationality or permanent residence of the beneficial owner or owners of the vessel in accordance with their national law;
- (ii) where effective control over the activities of the vessel is exercised.

(b) Nothing in this paragraph shall affect the rights and obligations between the Member States of a regional economic integration organization pursuant to the treaty or treaties establishing that organization.

Commentary:

*A view was expressed that the words "beneficial owner" should be replaced by the words "legal owner" and that therefore paragraph 2 (i) should read as follows:*

" (i) *the nationality or permanent residence of the legal owner or owners of the vessel in accordance with their national law* ".  
*It was also suggested that paragraph 2 should be deleted on the grounds that it went beyond what the international community had managed to agree upon in the Law of the Sea Convention.*

3. No Party shall accord a fishing vessel to which this Agreement applies the right to fly its flag unless it is satisfied:

- (i) that the vessel does not have the right to fly the flag of another State; or
- (ii) that the right of the vessel to fly the flag of another State will cease to exist on the allocation to that vessel of the right to fly the flag of the Party concerned.

**Article V**

**FLAG STATE RESPONSIBILITY**

1. Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of internationally agreed conservation and management measures, including, as appropriate, by making any such activity an offence under its national legislation.

Commentary

*A view was expressed that paragraph 1 should rather read as follows:*

" *Each Party shall take such measures for fishing vessels entitled to fly its flag as may be necessary for the conservation of marine living resources on the high seas, including those measures to ensure making contravention of such measures an offence under its national legislation.*"

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to fish on the high seas unless it has been authorized to do so by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

3. Each Party shall ensure that all fishing vessels that it has registered under paragraph 1 of Article III are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.

4. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement.

5. Each Party shall take appropriate enforcement action in respect of any activities by vessels entitled to fly its flag in contravention of this Article. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Article.

Commentary

*A view was expressed that the following new Article could be appropriately inserted in the draft Agreement at this point:*

" *Article VI*

*CONTROL*

*Every fishing vessel when in a port of another Party shall be subject to control by officers duly authorized by such Party in so far as control is directed towards verifying that such vessel has not been used for any activity that undermines the effectiveness of applicable international conservation and management measures."*

## Article VI

### INTERNATIONAL COOPERATION

1. Parties shall cooperate as appropriate in the implementation of this Agreement, including:
  - (i) by assisting in the determination of the registry of fishing vessels reported to have engaged in activities undermining internationally agreed conservation and management measures;
  - (ii) through the exchange of evidentiary material relating to such activities.

Commentary:

*A view was expressed that the paragraph could be reworded as follows:*

*"1. Parties shall cooperate as appropriate in the implementation of this Agreement, including:*

- (i) by establishing the lists of fishing vessels flying their flags and having engaged in activities undermining internationally agreed conservation and management measures;*
- (ii) through the exchange of information relating to such activities.*

2. Parties should enter into cooperative agreements or arrangements of mutual assistance by port States with flag States on a global, regional, sub-regional or bilateral basis so as to promote the achievement of the objectives of this Agreement.

Commentary:

*A view was expressed that the term "port State" should be defined. It was also suggested that the words "as well as, when and as appropriate, with coastal States" should be inserted after the words "port States with flag States". New paragraph 2 would then read " Parties should enter into co-operative agreements or arrangements of mutual assistance by port States with flag States, as well as with coastal States when and as appropriate, on a global, regional, sub-regional or bilateral basis so as to promote the achievement of the objectives of this Agreement."*

## Article VII

### EXCHANGE OF INFORMATION

1. For the purpose of identification of its fishing vessels, each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the register required to be maintained under paragraph 1 of Article III:

- (i) name, port of registry, and previous names (if known);
  - (ii) previous flag (if any);

- (iii) International Radio Call Sign (if any);
- (iv) name and address of owner or owners;
- (v) where and when built;
- (vi) type of vessel;
- (vii) length.

Commentary:

*A view was expressed that the words "(if any)" in subparagraph (iii) should be deleted and replaced with the words "or, in the absence of such a call sign, the country registration number". It was also suggested that the contents of subparagraph (iv) should be moved to and incorporated in subparagraph (i) of paragraph 2 of this Article. It was further suggested that subparagraph (vi) should be moved to and incorporated in subparagraph (ii) of paragraph 2.*

2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the register required to be maintained under paragraph 1 of Article III:

- (i) name and address of manager or managers (if any);
- (ii) type of fishing method or methods;
- (iii) moulded depth;
- (iv) beam;
- (v) power of main engine or engines.

Commentary:

*A view was expressed that the reference to the power of main engine or engines in subparagraph (v) should be completed by indicating the criteria by which the power should be measured, e.g. horse-power or Kilowattage.*

3. Each Party shall promptly notify to FAO any modifications to the information listed in paragraphs 1 and 2.

4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 to all Contracting Parties, and, on request, individually to any Party or, subject to any restrictions regarding confidentiality, to any international or regional fisheries management organization.

Commentary:

*A view was expressed that the contents of this paragraph should be divided into two separate parts, dealing respectively with the circulation of information to Contracting Parties and to fisheries management organizations. The following could be such a possible reformulation:*

*"4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information on request individually to any international or regional fisheries management organization. "*

*It was also suggested that paragraph 4 should require FAO to make the register information available for consultation and to facilitate such consultation.*

5. Each Party shall make available to FAO up to date lists of vessels authorized to fish under paragraph 2 of Article V, and shall inform FAO promptly of any addition to or deletions from those lists.

6. Each Party shall report promptly to FAO full particulars of any activities undermining the effectiveness of internationally agreed conservation and management measures, including the identity of the fishing vessel or vessels involved and sanctions imposed by the Party in respect of such activities.

**Commentary:**

*A view was expressed that the words "whatever their flag might be" should be inserted after the words "or vessels involved". It was also suggested that the paragraph should only refer to actions to be taken by the flag State.*

7. FAO shall circulate promptly to all Parties, and, on request individually to any Party or, subject to any restrictions regarding confidentiality to any international or regional fisheries management organization, the information provided under paragraphs 5 and 6.

**Commentary:**

*A view was expressed that the contents of this paragraph should be divided into two separate parts, dealing respectively with the circulation of information to Parties and to fisheries management organizations. The following could be such a possible reformulation:*

*"4. FAO shall circulate promptly the information provided under paragraphs 5 and 6 to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information promptly on request individually to any international or regional fisheries management organization."*

8. Parties shall exchange information relating to the implementation of this Agreement, including through FAO and other appropriate international and regional organizations.

## Article VIII

### TECHNICAL ASSISTANCE

Parties should cooperate, at a bilateral, regional or global level, with the support of FAO and other international bodies to provide assistance, including technical assistance, to Parties that are developing countries in order to promote the achievement of the objectives of this Agreement.

**Commentary:**

*A view was expressed that the concept of the duty of parties to cooperate should not be made conditional on support from FAO or other international bodies, and that*

*these two concepts should be dealt with separately in the paragraph. This could also be dealt perhaps by adding the words "as appropriate" after the words "international bodies". It was also suggested that the word "bodies" was inappropriate and should be replaced by the word "organization".*

## Article IX

### NON-PARTIES

1. Parties shall encourage any State or entity not Party to this Agreement to adhere to this Agreement or to adopt laws and regulations consistent with the provisions of this Agreement.

#### Commentary:

*A view was expressed that the word "entity" should be deleted from the first part of the sentence and that the words "any State or entity" could be inserted before the words "to adopt laws". The paragraph would then read as follows:*

*"1. Parties shall encourage any State not Party to this Agreement to adhere to this Agreement or any State or entity to adopt laws and regulations consistent with the provisions of this Agreement."*

2. Parties shall cooperate in taking actions, consistent with international law and their respective domestic laws, to induce fishing vessels entered on the register of a State or entity not Party to this Agreement not to engage in activities that undermine the effectiveness of internationally agreed conservation and management measures.

#### Commentary:

*A view was expressed that the words "and their respective domestic laws" should be deleted from this paragraph. The paragraph could also be redrafted along the lines of Article XXII of the Convention on the Conservation of Antarctic Marine Living Resources as follows:*

*"2. Parties shall cooperate in taking actions, consistent with international law, to the end that fishing vessels entered on the register of a State or entity not Party to this Agreement do not engage in activities that undermine the effectiveness of applicable international conservation and management measures."*

## Article X

### SETTLEMENT OF DISPUTES

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.

2. In the event that the dispute is not settled through these consultations, the Parties in question shall consult among themselves with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

3. Any dispute of this character not so settled shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration. Failure to reach an agreement on referral to the International Court of Justice or to arbitration shall not absolve Parties to the dispute from the obligation to continue to seek to resolve it by any of the various peaceful means of their choice.

Commentary:

*A view was expressed that the words "in each case" should be deleted. It was also suggested that reference should also be made to the International Tribunal for the Law of the Sea in addition to the International Court of Justice and arbitration. It was also suggested that the last sentence could be reworded as follows: "In the case of failure to reach agreement on referral to the International Court of Justice or arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources".*

## Article XI

### ACCEPTANCE

1. This Agreement shall be open to acceptance by any Member or Associate Member of FAO, and to any non-Member State that is a member of the United Nations, or of any of the specialized agencies or of the International Atomic Energy Agency.

Commentary:

*A view was expressed that the words "or of the International Atomic Energy Agency" should be deleted.*

2. Acceptance of this Agreement shall be effected by the deposit of an instrument of acceptance with the Director-General and shall take effect on receipt of such instrument by the Director-General.

3. The Director-General shall inform all Parties, all Members of FAO and the Secretary-General of the United Nations of all acceptances that have become effective.

Commentary:

*A view was expressed that the paragraph could more appropriately be redrafted as follows:*

*"3. The Director-General shall inform all Parties, all Members of FAO and the Secretary-General of the United Nations of all instruments of acceptance received.  
"*

*It was also suggested that the following new paragraph be added to this Article:*

*"4. An instrument of acceptance submitted by a regional economic integration organization shall be accompanied by a declaration explaining the extent of the organization's competence with respect to matters governed by this Agreement. Such organizations shall also inform the Depositary, who will inform the other Parties, of any substantial modification in the extent of their competence over these matters."*

## Article XII

### ENTRY INTO FORCE

This Agreement shall enter into force as from the date of receipt by the Director-General of the tenth instrument of acceptance.

#### Commentary:

*A view was expressed that the number of the instruments of acceptance required should be left blank, and that consideration be given to the possibility of combining a numerical specification of acceptances received with some criterion relating to participation of countries accounting for a certain proportion of the total world catch. It was also suggested that the words "as from" should be replaced by the words "upon".*

*The addition of the following new paragraph was also suggested:*

*"2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.*

## Article XIII

### RESERVATIONS

Reservations to this Agreement shall be governed by the provisions of the Vienna Convention on the Law of Treaties of 1969.

#### Commentary:

*A view was expressed that the reservations should not necessarily be welcomed for this Agreement. It was suggested that the wording of the present Article should be made more precise. The following are two alternative wordings suggested:*

*"Acceptance of this Agreement may be made subject to reservations in accordance with the general rules of public international law as reflected in the provisions of Part II, Section 2 of the Vienna Convention on the Law of Treaties of 1969."*

*"1. The Director-General shall receive and circulate to all Parties the text of reservations made by States at the time of notification or accession.*

2. *A reservation incompatible with the object and purpose of the present Agreement shall not be permitted.*
3. *Reservations may be withdrawn at any time by notification to that effect addressed to the Director-General, who shall then inform all Parties. Such notification shall take effect on the date on which it is received by the Director-General. "*

#### Article XIV

##### WITHDRAWAL

Any Party may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Parties and the Members and Associate Members of FAO of such withdrawal. Notice of withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

#### Article XV

##### AUTHENTIC TEXTS

The original of this Agreement, of which the English, French and Spanish texts are equally authentic, shall be deposited with the Director-General of FAO.

Commentary:

*A view was expressed that this paragraph could appropriately be reworded as follows:*

*"The Arabic, Chinese, English, French, and Spanish texts of this Agreement are equally authentic."*

#### Article XVI

##### DUTIES OF THE DEPOSITARY

The Director-General shall be the Depositary of this Agreement. The Depositary shall:

- (a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-Member States as may become party to this Agreement;
- (b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) inform each Member and Associate Member of FAO and any non-Member States as may become Party to this Agreement of:

- (i) instruments of acceptance deposited in accordance with Article XI;
- (ii) the date of entry into force of this Agreement in accordance with Article XII;
- (iii) reservations and objections to reservations in accordance with Article XIII; and
- (iv) withdrawals from this Agreement pursuant to Article XIV.

Commentary:

*A view was expressed that this Article could be more appropriately located as a new Article XI before the present Article on Acceptance.*

## APPENDIX G

### Keynote Address by Dr Gunnar Saetersdal

#### FISHERIES RESEARCH AND FISHERIES MANAGEMENT, HISTORICAL PERSPECTIVES AND SOME CURRENT CHALLENGES

I am very honoured indeed to have been given the opportunity of addressing this distinguished audience. With its world wide participation of fishing nations COFI is a body uniquely representative of our fisheries world with all its competence and all its problems.

As befits my present state of life and career I will use this opportunity to take you with me in tracing some main events in the history of fishery science and fisheries management from the early times onwards, and then express some views on the present challenges with these perspectives in mind. My hope would be that this exercise might contribute to the background for your important discussions of current problems of management at this session of COFI.

I have worked in programmes of fishery research and management in many important fishing regions around the world, but my most comprehensive experience is from the Northeast Atlantic and much of what I say will draw on that experience.

A few years back when the report of the Brundtland Commission "OUR COMMON FUTURE" had been submitted and was studied and reviewed at various levels, I was asked from a source in one of our Ministries back home whether any of the programmes of FAO's Department of Fisheries were relevant to the Report's central concept of sustained development or sustained resource use. The answer was of course very simple and easy: there are hardly any of the programmes of the Department that are not relevant to the concept.

To regulate fisheries so that the resources are maintained and will give sustained yields is, as we all know, a central issue in our fisheries world and it is an issue that has been in the focus of interest of several generations now of fishermen, fisheries administrators and fisheries scientists. This of course does not mean that the related problems have been dealt with and solved, a correct representation is, I think, to say that the problems have been struggled with over a great span of time. Important advances have been made in our knowledge and understanding and we have progressively been addressing new and more complex issues related to that apparently simple objective: sustained resource usage. And we will no doubt continue to do so for a long time into the future.

Perhaps the best illustration of the early concern for sustainable resource use is the creation in the first years of this century, of the International Council for the Exploration of the Sea, ICES, in the Northeast Atlantic. This region, bordered by seafaring nations became the cradle for the early stages of modern fisheries and consequently also for fisheries science and fisheries management. The history of fisheries of that region therefore describes many of the problems encountered and the advances made at that time and later in the growing world fisheries.

I would like to dwell a few moments on the concerns for the resources and for the fisheries which about one hundred years ago led to the creation of this international organization for cooperation in marine science and fisheries.

One of the causes of concern was a decline in the yields of the great northern cod fisheries off the coast of North Norway. Fluctuations in the catches from this centuries old fishery were well known, but the decline which occurred towards the end of the last century was drastic, on a scale similar to that which has taken place in the cod fisheries in the Northwest Atlantic recently. The absence of the fish caused great suffering, even famine among the coastal population which depended entirely on fishing for their living, so the grounds for concern were substantial and real.

In a digression I would like to remark that natural resource fluctuations, of which this was an example since the cod stock was at that time only lightly fished with passive gear, is a phenomenon which still greatly complicates both fisheries research and fisheries management in many areas. Among other things it is often difficult to distinguish between the effects on a resource of the fishery itself and of unfavourable environmental factors. And a rate of exploitation which is safe and sustainable with a favourable environment, can lead to overexploitation of a stock which is under environmental stress. This problem of resource fluctuations has thus been with us and has caused concern since the early start of modern fisheries.

Turning back again to those early years, the other main issue causing concern for the future of the fisheries was related to the growing trawl fishery in the North Sea where large amounts of undersized and immature fish were taken as by-catch. What effect would this in the long term have on the productiveness of the stocks? Or as it was put more generally in the objectives of the first programme of international cooperation: to determine whether or how far variations in the available stock were caused by the operations of man and if so what measures of restrictions and protection should be applied. With these questions the search was on for a model for the exploitation of fish stocks. Nearly half the century actually passed before the scientists had developed such models. This slow advance is not so surprising, the sea is wide and deep and hides its secrets well.

The scientist's early understanding of the reactions of fish stocks to exploitation was helped by a gigantic fishing experiment created by the greatly reduced fishing in the North Sea during the First World War. When fisheries were resumed after the war, the stocks had changed, demonstrating that reduced fishing effort would result in higher catch rates and larger fish. Together with the development of methods to age the fish, this experience encouraged the search for a general theoretical basis for quantifying fishery effects and estimating potential yields.

One stage towards this goal was attained already in the 1930s and it is worth noting because it still has relevance to many of the worlds fisheries today although it may seem a rather plain statement. This is the "Great law of fishing" formulated by the UK scientist Michael Graham which states that unlimited fisheries becomes unprofitable: "Because of increased fishing effort resulting from improved efficiency and addition of capital, industrial fisheries will, if left to themselves move in a self-defeating process towards a marginal state". This represents a version of the tragedy of the commons, or more generally the problem of open access.

So already in the 1930s the need for regulations of the fisheries was clearly recognized in the Northeast Atlantic. Fishery scientists made great advances in the next decades and with the presentation of Beverton and Holt's exploitation model around the middle of the century, we can say that fishery science was in principle available as a workable tool for a science-management system.

But science, although of basic importance, forms only one part of a successful system of fishery regulations, the other part being the human political side. And as in so many other aspects

of international relationships, the road towards workable systems in international fisheries was long and tortuous. And we are of course still not at the end of that road.

Tracing then this political side we find that the first international fisheries convention was agreed in the Northeast Atlantic in 1937. This convention dealt only with mesh sizes and size limits for fish. Another world war intervened allowing the stocks in the area to recover and in an effort to make the best possible use of this, the United Kingdom called an "Overfishing Conference" in London in 1946 and proposed a convention which in addition to mesh sizes and size limits of fish included restrictions on fleet capacity. Quota- or fleet capacity regulations were, however, too radical tools for international management at that time and the 1946 Convention for the Northeast Atlantic Fisheries and its "Permanent Commission" was severely limited by lack of power. In 1962 a new convention with wider powers was agreed with the Northeast Atlantic Fishery Commission, NEAFC replacing the Permanent Commission.

With NEAFC we enter the last phase of the open-access regime in this region, perhaps the most frustrating period in European fisheries history. The European fishing nations now had a well established and fully recognized science-management system through ICES, NEAFC and the national fisheries administrations, an apparently effective set of tools. Still the fishing pressure was allowed to increase excessively in this period so that eventually a majority of the stocks were diagnosed as overfished and two large pelagic stocks depleted. Much the same experience can be recorded from open access commissions in other areas such as ICNAF in the Northwest Atlantic and later, ICSEAF in the Southeast Atlantic and it seems fair to claim that these regional coastal conventions in general failed in their main objectives of safeguarding the resources and ensuring a sustained development of their use.

Since regional fisheries commissions still have some actuality and represent a model which is under consideration for management systems in open access high seas areas, it is of interest to examine why the performance of those old coastal area commissions was generally speaking so disappointing.

The main problem appears to have been that the advice was not acted upon at all or only half-heartedly, with recommended TACs and fishing seasons expanded by the responsible managers. There may at times have been lack of trust on the part of the managers in the advice, but based on my personal experience of work in NEAFC over its last five-year period of life it was evident that the many countries concerned were unable to act in unison for a common long-term benefit against short-term individual interests. One reason for this sad lack of performance may be sought in the working procedures of the commissions. The procedures for adopting regulations of the fisheries which would safeguard the stocks were not sufficiently separated from those of allocating quotas and fishing rights among the participants, resulting in compromise solutions which caused increased pressure on the resources. This may perhaps be a point worth noting in the creation of new regional conventions for the high seas.

The main experience I have drawn on up till now has largely been from the early and intensively fished waters of the Northeast Atlantic and we have followed main events up to the advent of the LOS regime. For considering that we need a global approach.

From about 1950 onwards world fisheries entered a phase which can be termed a second revolution of industrial fisheries. Total global catches expanded steadily and very rapidly from some 20 mill tons in 1950 to about 65 mill tons in 1970. This was achieved by technological advances

in equipment and vessels and through large-scale expansions in the fleets of old and new fishing nations some of which developed a worldwide operation.

When referring to the spectacular revolution of world fisheries in the second half of this century, FAO's contribution must be recorded. Through field programmes, creation of regional fisheries organizations, development of global information systems, support of fishery science, technology and training just to sketch some of the activities, the Organization had a profound influence on the development of world fisheries. The full history of that role has yet to be written.

But the 1970s came to appear as a bleaker period after two decades of rapid expansion. We have heard of the failure of the NEAFC to safeguard the stocks in the Northeast Atlantic where fishing nations saw the collapse of several large stocks of small pelagics in the late 1960s. South African and Namibian sardines collapsed at about the same time and the Peruvian anchovy in 1971/72. This last event stopped the growth of total world catch and it even declined for some years. Thus during the early 1970s the state of the fisheries both from a global point of view as well as from that of important fishing regions gave cause for concern. Improved management was seen as an urgent need and the open access status appeared as the main obstacle to better management. It was expected that the Extended Fisheries Jurisdiction for coastal states under the LOS Convention would solve or at least alleviate that problem.

The other main expectation to the extended coastal state jurisdiction was a redistribution of wealth in favour of the coastal countries and especially a more equitable distribution in favour of those in developing regions. This latter was in part related to the effects which the new regime was expected to have on the fisheries by long distant fleets from developed fishing nations off the coasts of developing nations which amounted to some five million tons of annual catch.

To what extent were the expectations to the LOS regime then fulfilled? There is a wide and varied experience of this and to give a comprehensive reply to that question is beyond the scope of this brief address. But I will offer some general comments and look at a few selected highly fished areas.

Addressing first briefly the question of a more equitable distribution of resource wealth between developed and developing states, we can record a significant increase in the share of developing countries catches from the sea in the late 1970s and during the 1980s, from less than 40% to more than 50%. It seems likely that this at least partly must be related to the extended coastal jurisdiction. Catches by long-distance fleets off developing regions remained largely unchanged for a long period, but now with some benefits accruing to the coastal nations concerned in the form of licence fees and other payments. These are, however, modest compared to the total gains that may be obtained from a full national use of the resources and we must assume that this latter is the long-term objective of most coastal nations. Several new fishing nations did in fact emerge in the developing regions after the establishment of the new regime and we are likely to see new additions to these, especially with the declines in recent years in the activities of distant water fleets in coastal areas. The expectations to a more equitable sharing of the resources under the LOS regime seem thus at least partly to have been fulfilled.

Now, as regards the consequences for fisheries management there can be no doubt that the LOS regime in general represented a watershed. Responsibility for the conservation of the coastal shelf resources, more than 80% of the total, now came to rest with the coastal nations, more clearly identifiable parties than a fishery convention. Some problems of international nature still remained in many coastal fishing areas, notably the conservation and allocation of shared stocks. But the

institutional arrangements were now simpler with fewer participants often forming bilateral commissions. Allocation of shared stocks among neighbouring coastal states became a new problem, but this was fairly easily resolved when properly attended to, such as in the Northeast Atlantic. The LOS Conventions provisions for the highly migratory species and the straddling stocks have proved less practicable and useful. The international community is trying to find solutions to the problems of high seas fisheries and my further comments will not include these types of resources.

An important advance of the LOS Convention was also that it set out generally accepted standards and objectives for the exploitation of fishery resources, but still left coastal states a fair degree of freedom to pursue national objectives in their fisheries policies.

Did these improvements then result in better management and improved state of the resources? The answer is for some stocks and regions yes, but not perhaps to the extent expected.

Under the new regime the world marine catch has increased with another 24 million tonnes up to the end of the 1980s. It cannot of course be argued that this came from improved management, but this rate of growth would on the other hand hardly be expected under a worldwide state of mismanaged fisheries. But this recent growth no doubt brought us closer to a full utilization of the worlds fishery resources as perhaps is indicated by the stagnation of the world catch figures in recent years.

The stock histories from some specific highly fished areas for the period of the shift of regimes in the 1970s and 1980s may prove of interest for evaluating the effect of the new regime. In the Northeast Atlantic the legacy from the commission regime included several depleted stocks of small pelagics, among them the largest, the North Sea- and the Atlanto-Skandian herrings. After the establishment of the EEZs, total fishing bans and other radical regulation measures were introduced and enforced, and all of the main stocks have recovered their former state. A few of the demersal stocks in this area have also responded to reduced rates of exploitation and protection of juveniles, but for others the managers did not succeed in reducing the fishing pressure and the stocks remain at low productive levels.

In another intensively fished area, the Northwest Atlantic, the coastal states, especially Canada started the era of the EEZ regime by setting much improved standards for resource conservation and with the best intentions of preserving and rebuilding the stocks. The fact that the stocks instead entered a period of substantial decline is not easily explained in terms of fishery effects, although the problem of control and surveillance of the fishery on the straddling stocks may have played a part. Possible effects of adverse trends in the climate in these high northern grounds causing natural stock fluctuations such as are well known for West Greenland, may have contributed to the decline.

Lastly, I would like to mention one region where the new regime recently brought about greatly improved management with resulting stock recoveries, the Southeast Atlantic. Until 1990 the rich shelf off Namibia was under open access and fished by an international fleet. The fishing nations concerned attempted to manage the fisheries and conserve the stocks through an open commission, ICSEAF. The work of this commission was, however, not more successful than that of other similar bodies and it left a legacy of depleted demersal stocks. Upon declaring an EEZ after independence in 1990, Namibia introduced effective regulation measures for the fisheries and can now record rapidly recovering demersal stocks.

This is of course only a fragmentary analysis of the performance of fisheries management under extended coastal state jurisdiction. But I believe it demonstrates that the state of open access was indeed a main obstacle to rational management and that management can succeed under the new improved conditions. But why is the overfishing problem then still with us?

Before trying to answer that question it may be useful to attempt to assess roughly the present dimension of that problem, or in other words the state of world fisheries today.

Several of the documents submitted to this meeting of COFI dealing with this subject paint a rather bleak picture of the present state of world fisheries management pointing to a proliferation of unprofitable fisheries and overexploited stocks.

When reviewing these documents I found that it would perhaps have been useful if a clearer distinction had been made between the biological state of the resources and the economic state of the fisheries. In drawing the conclusions in the documents, economic considerations seems to have weighed heavily for the analysts, especially in order to draw attention to the many cases of excess fleet capacity in world fisheries. But unprofitable primary sectors cannot always be equated with depleted stocks. It is, I think within the prerogatives of governments to formulate policies and set the objectives for their national fisheries as long as the resources are maintained at productive levels. Such objectives many be varied and include goals which represent obstacles to a high profitability of the primary sector such as, for example, social allocation of resource wealth and increased employment opportunities.

In the context of biological, social and economical objectives of fisheries, it is of interest to note that the body which provides advice on fishery management recently changed its policy with regard to the formulation of the advice. The norm is now that managers are presented with a number of options for regulation measures together with their consequences among which they can choose. Recommendations for specific regulations are only submitted for stocks which are diagnosed as outside safe biological limits. The issue of safeguarding the stocks is thus to some extent separated from economic and social objectives of fisheries.

I believe then that with a purely biologically based assessment of world fishery resources there would not be a proliferation of stocks which had to be given this diagnosis of "outside safe biological limits". Still we cannot fail to record that there are a number of cases of stocks in poor condition in various fishing regions, presumably caused by excessive fishing and other management failures and these of course represent a biological and economical waste. So overfishing is still a problem which is need of our attention.

There are certain to be a number of different causes for the management failures some of which may be sought in the economical and political fields. Among those the failure to make proper use of a science advisory system may have contributed to the failures in recent times.

The traditional exploitation models treat fish stocks as single self-contained units. With low fishing pressure this was a workable model and may still be so for many resources, but as we reach full utilization of resources in more and more regions, the interrelationships between resource units often appear to become a critical issue. Fisheries may disturb the balance between stocks, in some cases simply because we reduce or remove their main source of food. An example of an interrelationship which through research has recently reached the management level is the fisheries for cod and other demersal fish and for their main prey species, capelin and herring in the North Atlantic. When allocating quotas for the fisheries for capelin and herring in this region, the

managers now set aside special annual quotas of these species for the cod and haddock at levels of their estimated predation needs.

The failure to take into account such stock interrelationships and added to that, the incomplete understanding of the impact on the stocks of changes in the physical and biological environment may have represented an important obstacle to effective management in this recent period when resources are being fully utilized. A rate of exploitations which is safe and will preserve a stock under favourable or normal environmental conditions, may prove to be too high if the resources come under environmental pressure. Also changes of ecosystem components other than those induced by fishing may be important. In the Northwest Atlantic the present situation of unexploited seal populations and relatively high fishing pressures on the cod stocks is new and may not be sustainable. Another example of a similar questionable case is whether the high fur seal stocks on the Namibian coast may represent an ecological obstacle to the recovery of the Namibian pilchard stock.

Ecosystem management which takes stock interrelationships and environmental impacts into account is a concept which has been under development over a period of time. There are, as I have mentioned, recent examples of encouraging advances, but the full generation of the knowledge and insights which must form the basis for its application requires very substantial research efforts. Some of the problems may be insolvable because of the complexity of the problem or because research costs would be prohibitive, such as long-term prediction of stock fluctuations caused by environmental changes, disruptions as in the El Niño of the Peru Current or climate shifts as in the northern cod stocks. But even in such cases improved monitoring of early recruitment and of biological stock parameters may provide a basis for adjustment of the fishing pressure to the new ecological conditions.

If these developments in marine and fisheries science are encouraged, we can look forward to more comprehensive advice on the biological basis for fisheries management in the future. It would thus seem that ecological considerations must form a cornerstone in the new code of conduct to characterize better fisheries management, to be developed under the concept responsible fishing.

But these deeper insights into the fish resources and their environment cannot be obtained for free. There is a need for substantial support of fisheries investigations and this kind of research is unfortunately not cheap. The secrets of the sea cannot be revealed behind a desk ashore, the scientist must be there, on the research vessel at sea to observe and record. But I believe on the other hand, it is often the case that the costs of research in fisheries make out a much smaller proportion of the total value of the industry than research costs in other industries and similar sectors, an argument which may perhaps soften a minister of finance.

The need for increased support of fishery and other marine research is worldwide and the challenges to the scientist in the developing regions is at least as great as to those in the developed fishing nations. Examples are the special conditions in tropical waters and the complex problems in the rich, but unstable upwelling systems of the Peru, California, Canary and Benguela currents. Many developing fishing nations have made great efforts to build up effective administrations in support of fishery management, but there is, as shown by a recent investigation, a need for further support of these efforts by the international community. With more than 40 years' experience of technical assistance in fisheries, FAO's Department of Fisheries is in a central position to take on major responsibilities and functions in a period of renewed international support of fishery research.

I hope that with this brief review of main events in the histories of fishery science and fisheries management I have been able to demonstrate that sustained resource utilization has been upheld as an overall objective throughout. Substantial achievements towards this goal have been made even in the revolutionary period of technological innovations and expansion of world fisheries which we have experienced over the last 40 years.

As we now seem to approach a state of full resource utilization and a period of consolidation of world fisheries, we find that we are still burdened with traditional overfishing problems in some areas and we confront new challenges to rational management in the need to take account of stock interrelationships and environmental effects.

You have a number of important problems concerning the state of world fisheries on your agenda for this 20th session of COFI. I hope you will give special attention to the main issues which I have touched on here. Your deliberations and conclusions are important and can affect further developments in these fields in significant ways.









