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WESTERN CENTRAL ATLANTIC FISHERY COMMISSION (WECAFC)

FIFTEENTH SESSION

Port of Spain, Trinidad and Tobago, 26-28 March 2014

Regional collaboration in addressing IUU Fishing

Background

The Commission's functions and responsibilities include, under Article 6 of the WECAFC Statutes, to:

(b) assist its members in implementing relevant international fisheries instruments, in particular the FAO Code of Conduct for Responsible Fisheries and its related International Plans of Action; and

(i) "provide advice on monitoring, control and surveillance, and to promote cooperation on these matters, including joint activities, especially as regards issues of a regional or subregional nature".

Regional collaboration in these activities, among others, would serve to strengthen efforts to address IUU fishing. CRFM reports¹ that the main IUU issues identified in CRFM member states in a 2005 study on IUU fishing in the CARICOM/CARIFORUM region were:

- IUU fishing of national operators in national waters (all fleets from small scale to industrial);
- Poaching of neighboring (regional) fleets (mostly small scale and semi industrial) in national waters (inshore waters and offshore banks); and
- Poaching of industrial scale tuna fleets in national offshore (deeper EEZ) waters

In CARICOM, IUU fishing is estimated at between 17% and 20% annual catch. The impact is not well documented, but it definitely costs tens of millions of US dollars annually. However, 80% of Member States identified it as one of the main threats to sustainability and development of fish stocks in the region.

¹ http://www.crfm.net/~uwohxjxf/images/Castries_Declaration_-_Getting_Fisherfolk_Onboard_-_Policy_Brief_1.pdf.

CRFM reports further that IUU fishing in the EEZs of CARICOM countries is perpetrated to a great extent by national artisanal fisheries. IUU fisheries are a greater threat to their fishing sector than distant water fleets (Franklin 2006). A report by the Commonwealth Fisheries Programme (2009) estimates that Belize loses approximately US\$10 million a year due to IUU fishing in its territorial waters.

The objective of this document is to review regional collaboration in addressing IUU fishing in the context of recent considerations in WECAFC XIV and the Thirtieth Session of the FAO Committee on Fisheries (COFI XXX), key international and regional fisheries instruments and the FAO/WECAFC Regional Workshop on Implementing the 2009 Agreement on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing (“the Port State Measures Workshop”), 24-28 March 2014, Port of Spain, Trinidad and Tobago.

Consideration by WECAFC XIV and COFI XXX

WECAFC XIV and COFI XXX, both held in 2012, devoted attention to collaboration in addressing IUU fishing, described below.

WECAFC XIV

Considering the review of the state of fisheries in the WECAFC region, the Commission emphasized the importance of making progress in addressing IUU fishing. The Commission expressed its concern with the declining trend in fish stocks and catches of a number of commercially and recreationally important fish species. The urgent need for increased cooperation to improve management was underlined.

Members called for support to smaller countries by the Commission in data collection and analysis, in order to complement the work carried out with the Caribbean Regional Fisheries Mechanism (CRFM).

The recommendations of the 2011 Regional Policy and Planning Workshop on the FAO Code of Conduct for Responsible Fisheries in the Caribbean were reported to the Session. They underlined that the Castries, St. Lucia Declaration on IUU fishing was a fundamental element for the development of fisheries legal and policy frameworks in the region, together with the Code of Conduct and the Caribbean Common Fisheries Policy.

COFI XXX

The Committee agreed that, despite some progress, IUU fishing continues to be a persistent and pressing problem, which has a significant adverse impact on achieving sustainable fisheries and food security. Action by all Members, through the implementation of existing tools and instruments and increased cooperation at all levels, was encouraged.

It urged FAO, Members, non-governmental organizations (NGOs) and donors to provide financial and technical support to developing States to strengthen all aspects of their capacity to combat IUU fishing.

The Committee stressed the need to continue to improve the management of fisheries. This should be achieved through enhancing international, regional and subregional collaboration, in particular between coastal and flag States, aiming at policy coherence, evaluating RFMOs performance and reforming them, as appropriate, while duly examining their complementarities, strengthening policy and legal frameworks in relation to IUU fishing, calling upon Members to consider acceptance of the 2009 FAO Agreement on Port State Measures (the 2009 Agreement), instituting schemes for reduction of overcapacity, and strengthening data

collection, in particular for small-scale operations. The Committee encouraged FAO to take leadership in these issues.

In relation to the 2009 Agreement, the Committee:

- (a) took note of the indications from 26 Members of their ongoing processes to ratify, accept, approve or accede to the 2009 Agreement and their calls for other Members to do likewise with a view to its early entry into force;
- (b) appreciated FAO's series of regional capacity-development workshops to prepare for the entry into force of the 2009 Agreement and encouraged FAO to convene workshops in other regions;
- (c) recognized the importance for State Parties of providing details, as required in Article 16 of the 2009 Agreement, concerning national contact points and designated ports; and
- (d) endorsed terms of reference for the Ad hoc Working Group under Part 6 of the 2009 Agreement to be applied when the 2009 Agreement enters into force.

The Committee urged FAO, Members, NGOs and other donors to provide financial and technical support to developing States to strengthen all aspects of their capacity to combat IUU fishing, including their capacity to improve monitoring, control and surveillance (MCS) capabilities.

Key recent international fisheries instruments

A review of relevant international fisheries instruments was presented at WECAFC XIV, based on document WECAFC/XIV/2012/6, "Support to the implementation of international fisheries instruments". It included reviews of the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the 2009 Agreement,² as well as some non-binding instruments. The 2009 Agreement is the most recent binding international fisheries instrument, which can form a robust, cost-effective basis for regional collaboration in addressing IUU fishing.

The most recent non-binding fisheries instrument are the 2013 FAO Voluntary Guidelines on Flag State Performance.³ They were adopted by a FAO Technical Consultation and will be presented to COFI at its Thirty-first Session in June, 2014 for endorsement.

2009 FAO Port State Measures Agreement

The Port State Measures Agreement sets out requirements established or interventions undertaken by port States with which a foreign fishing vessel must comply, as a condition for using the countries ports. The measures include requirements related to the use of designated ports, prior request for port entry, denial of entry, denial of port use⁴ before or after inspection, the conduct of port inspections and information on vessels and their activities, as well as related measures, such as the transmittal of reports, the role of flag States and training.

Port State Measures provide a powerful, cost-effective and straightforward mean of preventing, deterring and eliminating IUU fishing. Implementation of the 2009 Agreement will require a well thought through process of implementation, where both institutional and human capacity

² Other relevant international fisheries instruments include the United Nations Convention on the Law of the Sea of 10 December 1982, the 1995 FAO Code of Conduct for Responsible Fisheries and the 2001 FAO International Plan of Action to prevent, deter and eliminate IUU fishing.

³ <http://www.fao.org/fishery/nems/40262/en>.

⁴ For landing, transshipping, packaging and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking.

are considered, as well as the policy and legal bases for implementation. In short, each country will need to make sure they have:

- The **legal authority** to enable effective enforcement action in accordance with the provisions of the 2009 Agreement and other international legal instruments relating to fisheries.
- A **sufficiently staffed, adequately trained and well-informed inspectorate**, operationally well-integrated with other elements of the larger, integrated MCS and port control systems, as well as other relevant government agencies.
- **Information systems** to ensure that the information provided by the vessel and the results of inspection as required in the 2009 Agreement are efficiently used.
- **Systematic cooperation and sharing of information and intelligence** between national agencies and between port, flag and coastal States, regional bodies and other organizations.

The 2009 Agreement was originally signed by 22 countries and the European Union, of which five have deposited ratifications. An additional four countries (that were not original signatories) have ratified or acceded the 2009 Agreement, bringing the total number to 10. The Agreement requires 25 ratifications, accessions or approvals to enter into force. WECAFC Members that have signed the 2009 Agreement are Brazil and France, and the European Union is the only Member that has both signed and ratified it.

The Workshop on Port State Measures, being held concurrently with WECAFC XV, provides an opportunity to develop a new cost-effective form of collaboration in addressing IUU fishing.

FAO Voluntary Guidelines on Flag State Performance

The Voluntary Guidelines include recommended approaches to encourage and help flag States comply with their international obligations regarding the flagging and control of fishing vessels. They address principles, performance assessment criteria, cooperation between flag States and coastal States, procedures for carrying out assessment, encouraging compliance and deterring non-compliance by flag States, cooperation with and assistance to developing States with a view to capacity development and the role of FAO.

FAO will monitor and report on implementation of the guidelines to COFI. It will also provide in-country technical assistance to countries requiring support. That support may include capacity-building measures like the development of an adequate legal and regulatory framework; strengthening of institutional organization and infrastructure needed to ensure adequate control of vessels; the development or improvement of monitoring, control and surveillance (MCS) of fishing vessels, and training.⁵

An international case on IUU fishing in which flag State performance is a central issue, known as “Case 21”, is currently before the International Tribunal on the Law of the Sea. It involves the obligations of the flag State in cases where IUU fishing is carried out within the Exclusive Economic Zone of third party States, and the extent of the flag State's liability. CRFM has indicated that it intends to have legal representation to make an oral presentation when oral proceedings are eventually held. Moreover, FAO submitted its point of view to the Tribunal in 2013, representing also the regional fisheries bodies under its auspices, including WECAFC.

⁵ <http://www.fao.org/news/story/en/item/170570/icode/>

Key regional fisheries instruments

Caribbean Community Common Fisheries Policy

After a long process of development, the Caribbean Community Common Fisheries Policy is currently awaiting approval and signature by Heads of Government. Among its objectives is to prevent, deter and eliminate IUU fishing. Development and implementation of inspection and enforcement measures are among the areas included in the Policy. This is envisaged to include: monitoring, control and surveillance of areas under national jurisdiction to prevent, deter and eliminate IUU fishing; establishing appropriate vessel monitoring systems, adopting port and “at sea” inspection schemes and ensuring that appropriate and effective measures are taken against violators.

The 2010 Castries (St. Lucia) Declaration on IUU Fishing

This comprehensive CRFM Declaration, among other things, resolved and renewed efforts to establish a comprehensive and integrated approach to prevent, deter and eliminate IUU fishing by emphasizing the primary responsibility of the flag state in accordance with international law, and including port State, coastal State, and market related measures, as well as measures to ensure that nationals do not support or engage in IUU fishing, all of which shall address the economic, social and environmental impacts of IUU fishing.

It agreed on the need, *inter alia*,

- for a holistic and integrated approach to dealing with IUU fishing;
- to strengthen coastal and port state measures for fishing vessels consistent with international law in order to prevent, deter and eliminate IUU fishing in the Region and on the high seas; and
- for further international action to eliminate IUU fishing by vessels operating in open registries, flying “flags of convenience”, as well as to require that a “genuine link” be established between states and fishing vessels flying their flags in the Region and on the high seas.

Agreed actions include the development of a comprehensive database of fishing vessels in good standing and vessels involved in IUU fishing, and to identify, reduce and ultimately eliminate the economic incentives from IUU fishing. The Declaration emphasizes the need to implement MCS schemes with a view to increasing the cost effectiveness of surveillance.

FAO/WECAFC Regional Workshop on Implementing the 2009 Agreement on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing

The Port State Measures Workshop is organized to improve the understanding of the provisions of the 2009 Agreement, highlight the policy, legal, institutional and operational requirements for effective implementation of the provisions, and enhance the necessary skills of national officers in the implementation of port State measures.

It is expected that, following the workshop, countries will be better placed to strengthen and harmonize port State measures, thereby promoting enhanced social and economic development, and food security, which ultimately contribute to achieving improved fisheries conservation and management and reduced damage and stress on their related ecosystems.

Workshop participants will identify existing strengths and gaps or constraints at national, sub-regional and regional levels in relation to the following aspects of port State measures:

- Legal and policy
- Institutional and capacity development
- Operational
- Cooperation through regional mechanisms

Measures and actions will be proposed by the Workshop that could address the gaps or constraints, and priorities will be identified for national, sub-regional and regional levels.

The Commission is invited to review and adopt:

Resolution WECAFC/15/2014/6 “on region-wide support to the implementation of the CRFM “Castries, St Lucia, (2010) Declaration on Illegal, Unreported and Unregulated Fishing”

Resolution WECAFC/15/2014/9 “on the implementation of the Port State Measures Agreement and the FAO Voluntary Guidelines on Flag State Performance in the region”.