Report of the

TECHNICAL CONSULTATION TO REVIEW PROGRESS AND PROMOTE THE FULL IMPLEMENTATION OF THE INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING AND THE INTERNATIONAL PLAN OF ACTION FOR THE MANAGEMENT OF FISHING CAPACITY

Rome, 24–29 June 2004
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This is the final report approved by the participants at the Technical Consultation to Review Progress and Promote the Full Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity, held in Rome, Italy, from 24 to 29 June 2004.

FAO.

ABSTRACT

This document contains the report of the Technical Consultation to review progress and promote the full implementation of the International Plan of Action (IPOA) to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and the International Plan of Action for the management of fishing capacity which was held at FAO headquarters, Rome, from 24 to 29 June 2004. The Technical Consultation was convened by the Director-General of FAO on the recommendation of the FAO Committee on Fisheries at its twenty-fifth session in February 2003.

The Consultation reaffirmed the importance of Resolution (6/2003) “Progress Report on Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing” adopted in December 2003 at the FAO Conference and identified major recommendations for consideration by the Twenty-sixth Session of COFI in 2005 and the following FAO Ministerial Meeting on Fisheries to ensure effective and full implementation of the resolution as well as IPOA-IUU and IPOA-capacity. The Technical Consultation suggested a number of actions to be facilitated by FAO to promote the full implementation of the IPOA-IUU and IPOA-capacity. The Consultation examined, under exceptional circumstances, the particular situation of the tuna fisheries in the western and central Pacific Ocean. In view of the urgency of the situation, and the fact that the relevant regional fishery management organization (RFMO) is still in the process of becoming operational, the Consultation suggested that governments in the region should lend priority attention to addressing the situation, including halting introductions of additional large-scale fishing vessels.

Distribution:
All FAO Members
Participants at the session
Other interested nations and national and international organizations
FAO Fisheries Department
FAO Regional Fishery Officers
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OPENING OF THE CONSULTATION

1. On the recommendation of the FAO Committee on Fisheries (COFI) at its Twenty-fifth Session, the Director-General of FAO, Mr Jacques Diouf, convened the Technical Consultation to Review Progress and Promote the Full Implementation of the International Plan of Action (IPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing and the IPOA on the Management of Fishing Capacity. The Technical Consultation was held at FAO Headquarters, Rome, Italy, from 24 to 29 June 2004.

2. The Consultation was attended by 84 Members and observers, one non-Member nation of FAO, by representatives from two specialized agencies of the United Nations, and by observers from 27 intergovernmental and international non-governmental organizations. The list of delegates and observers is given in Appendix B. The documents that were placed before the Consultation are listed in Appendix C.

3. The meeting was called to order by the Secretary of the Consultation, Mr Benedict P. Satia.

4. Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries Department, in his opening statement on behalf of the Director-General, reminded delegates that the Technical Consultation was in direct response to a request from the Twenty-fifth Session of COFI. At that Session, the Committee agreed that strenuous effort should be made to control fleet capacity, particularly that of large-scale fishing vessels, and, as appropriate, implement measures to reduce over-capacity and prevent it from migrating to other fully exploited or over-exploited fisheries. Similarly, at the same Session, the Committee expressed concern about the continuing high and growing incidence of IUU fishing and the lack of effective implementation of the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) and recommended that FAO should convene a technical consultation to review progress and promote the full implementation of the 1999 FAO International Plan of Action for the Management of Fishing Capacity and the IPOA-IUU. Mr Nomura reported that both the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement, which have a strong bearing on IUU fishing and the management of fishing capacity, had come into force. He strongly encouraged countries that have not yet ratified these instruments to do so as soon as possible. He furthermore expressed the wish that the Consultation would undertake a thorough review of progress and promote further the implementation of the IPOA-IUU and IPOA-capacity. He concluded that this was important so that world fisheries would be managed more responsibly to ensure that fisheries could be available for the generations to come and that, above all, fisheries would continue to make an important contribution to food security, employment and poverty alleviation. The full text of the opening statement is attached as Appendix D.

ELECTION OF THE CHAIRPERSON

5. Mr Masanori Miyahara (Japan) was elected Chairperson of the Consultation.

ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE TECHNICAL CONSULTATION

6. The Consultation adopted the Agenda as given in Appendix A. The Chairperson outlined the timetable for the Consultation.
7. The Consultation agreed with the Chairperson's proposal that all discussions would be held in Plenary, though small groups could be established, as required, to address specific issues.

ELECTION OF VICE CHAIRPERSONS AND DESIGNATION OF RAPPORTEUR

8. Mr Hassan Sharaf (Kuwait), Ms Jane Willing (New Zealand) and Mr Sergio Mujica (Chile) were elected First, Second and Third Vice-Chairpersons respectively, and Mrs Nasrin Akhter (Bangladesh) the Rapporteur.

REVIEW OF AVAILABLE INFORMATION ON THE PRESENT STATUS OF FISHING CAPACITY AND IUU FISHING

9. The delegation of Japan made a presentation concerning the management of tuna fishing capacity and IUU fishing by tuna vessels and pointed out that international efforts to eliminate large-scale tuna longline vessels engaged in IUU fishing had resulted in a substantial reduction in the number of such vessels fishing since 2001. However, the cessation of construction of large-scale tuna longline vessels in Taiwan, Province of China had led to an increase in the construction of large-scale tuna purse seine vessels in that Province. These vessels are destined for operations in the western and central Pacific Ocean. At the same time, international business entities, including trading companies, had played an important role in encouraging vessel owners to expand their fleet. Many of the new purse seine vessels had been flagged in developing countries that have open registries. The delegation noted that the uncontrolled expansion of fishing capacity in the tuna fishery in the western and central Pacific was impeding the successful implementation of the IPOA-capacity and the IPOA-IUU. Several actions to address this situation were proposed by the delegation of Japan. The Consultation agreed that these actions would be addressed under Agenda Item 8.

10. Delegations took note with concern the information provided by Japan. It was pointed out that the tuna fishery in the western and central Pacific Ocean was in a critical state because of fishing capacity expansion and IUU fishing. One delegation cautioned against generalizations with regard to reduction of tuna fishing capacity stating that some species of tuna were considered to be underutilized. It also pointed out that it would be imprudent to seek agreement on general restrictions that would be applied to all tuna fisheries.

11. In addressing fishing capacity and IUU fishing, the Consultation agreed that other components of fisheries management should be considered. In particular, it was noted that fishing capacity and flags of convenience vessels are only some of the causes of IUU fishing. The Consultation also noted the lack of complete data and information on the state of IUU fishing and capacity. A holistic approach was essential to ensure that progress was made on all fronts. The Consultation reiterated that capacity control and combating IUU fishing are the responsibility for all governments and stakeholders irrespective of whether countries are developing or developed countries.

12. The Consultation noted the recent Organisation for Economic Co-operation and Development (OECD) Workshop on IUU Fishing Activities that was held at OECD Headquarters in Paris, France, from 19 to 20 April 2004. The attention of the Consultation was drawn to the key observations and findings of the Workshop. The key observations addressed the state of play on IUU fishing, information and data needs, economic and social drivers and possible actions by flag States, port States, coastal States and international trade
responses. It also addressed actions related to regional fisheries management organizations (RFMOs), international coordination and non-governmental organizations (NGOs) as well as the private sector.

13. The Consultation further noted with satisfaction the activities of the FAO Project on the Management of Tuna Fishing Capacity referred to in Document TC IUU-CAP/2004/Inf.7. The project, which involves relevant RFMOs, has so far undertaken a global review of the economic importance of the industry; the status of major stocks; the assessment of fishing capacity, and activities taken by RFMOs for the management of tuna fishing capacity.

**ACTIONS TAKEN BY MEMBERS, REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS (RFMOs) AND INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS (INGOs) TO IMPLEMENT THE IPOA-IUU**

14. In deliberating on actions to implement the IPOA-IUU, the Consultation agreed that effective measures must be put in place to combat IUU fishing. It was noted that while progress was being made to reduce opportunities for IUU fishing in many areas, increased efforts were required to ensure that it was eradicated.

**All State responsibilities**

15. To prevent, deter and eliminate IUU fishing, the Consultation noted that all States were required to take action. It was pointed out that without the cooperation among all States, measures by flag States, coastal States and port States would be less effective than they might otherwise be. The need for transparency by all States was underscored if measures to eradicate IUU fishing and related activities were to be successful.

16. The Consultation observed that acceptances and ratifications of the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement were lower that might be anticipated given the gravity of IUU fishing and its impact on sustainability. The Consultation urged countries that had not already accepted or ratified these international instruments to do so. It was pointed out that acceptance and ratification of these instruments was a key element in implementing the IPOA-IUU.

17. Some delegations advised the Consultation that they had taken steps to revise fishery policies and legislation so that they would reflect the requirements of the IPOA-IUU. The Consultation agreed that sanctions for IUU fishing should be of sufficient severity to dissuade fishers from engaging in IUU fishing. The Consultation noted that in many instances penalties were insufficient to deter IUU fishing and that, as a result, IUU fishers benefited financially from their illicit activities.

18. The Consultation recognized the importance of ensuring that incentives were not provided to fishers to engage in IUU fishing. The Consultation agreed that IUU fishing distorts competition and penalizes fishers that operate legally.

19. The central role of monitoring, control and surveillance (MCS) in combating IUU fishing was highlighted by many delegations. It was pointed out that many countries have taken steps to strengthen their MCS capacities. Some delegations advised the Consultation that they had complete vessel monitoring system (VMS) coverage for their industrial fishing fleets. Other delegations indicated that they were also in the process of extending VMS
coverage to artisanal fleets. One delegation noted that in strengthening its MCS measures, it had taken steps to ensure that fishers do not sell to traders known to purchase IUU-caught fish. It had prohibited employment of nationals on vessels known to have engaged in IUU fishing. Furthermore, vessels that had engaged in IUU fishing had their fishing authorizations suspended.

20. The Consultation acknowledged the important role played by the MCS Network in combating IUU fishing. The Network has about 40 participating countries. This initiative fosters collaboration between participating countries and facilitates the exchange of information relating to IUU fishing and related activities on a real time basis.

21. The Consultation recalled that FAO had contributed substantially to the work of the MCS Network and that it had been discussed at the Twenty-fifth Session of the FAO Committee on Fisheries (COFI) in 2003. The Consultation noted that FAO encouraged participation in the Network but that it was not appropriate for the Organization to host it because of the nature and scope of the functions of the Network and, in particular, the way it processes and disseminates the information it collects.

22. Many delegations advised the Consultation that they had completed, or were in the process of completing, their National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOAs-IUU). It was noted by some delegations that elaborating their NPOAs-IUU had been a useful task both in terms of taking stock of existing measures to address IUU fishing and in identifying gaps. It was also pointed out that NPOAs could not work effectively in isolation, and that regional and global action was needed to address IUU fishing.

23. The Consultation recognized that countries, particularly developing countries, were encountering difficulties in elaborating their NPOAs-IUU because of constraints in available resources, particularly technical and financial. It was noted that FAO, through a series of regional workshops, was assisting countries to elaborate their NPOAs-IUU. The Consultation was advised that in the absence of FAO assistance to limit IUU fishing, many developing countries would see it difficult to develop and implement NPOAs-IUU effectively.

24. The Consultation recognized that cooperation between States was imperative if efforts to combat IUU fishing were to be successful. Such cooperation, either bilaterally or through RFMOs, could address a wide range of measures designed to inhibit IUU fishing. States were encouraged to avail themselves of networks that existed in their efforts to combat IUU fishing.

Flag State responsibilities

25. The Consultation recognized that a lack of flag State control by some States was a primary reason that permitted IUU fishing to flourish. In the absence of effective flag State control over fishing vessels, the Consultation agreed that alternative and innovative measures were needed to address IUU fishing.

26. The Consultation considered the issue of the “genuine link”. It was noted that international law lacked clarity on this matter and that the International Maritime Organization (IMO) had been tasked to investigate the issue. It was agreed that if FAO was to initiate work on the “genuine link” for fishing vessels beyond what it is required to perform
under the 1993 Compliance Agreement, a definite and new mandate would be required from FAO’s Governing Bodies.

27. The Consultation noted with satisfaction that FAO had convened an Expert Consultation on Fishing Vessels Operating under Open Registries and their Impact on Illegal, Unreported and Unregulated Fishing that was held in Miami, USA, in September 2003. The Miami meeting focused on the effects of IUU fishing on global fishery resources and on lessons that might be learned from the experiences of flag States that have already implemented tighter control over the activities of their fishing vessels. It adopted a series of recommendations relating to IUU fishing. The implementation of these recommendations would assist in combating IUU fishing. Given the importance of the subject matter, the Consultation noted the need to consider the recommendations of the Miami meeting as a matter of priority.

Port State measures

28. The Consultation welcomed the work being undertaken by FAO with respect to port State measures. It was noted that the Technical Consultation to Address Substantive Issues Relating to the Role of the Port State to Prevent, Deter and Eliminate IUU Fishing would be held at FAO headquarters from 31 August to 2 September 2004. This Consultation would build on the work of an Expert Consultation that was held in Rome in November 2002. An important aspect of the Technical Consultation would be the consideration of principles and guidelines for the establishment of regional Memoranda of Understanding on Port State Measures to Prevent, Deter and Eliminate IUU Fishing. The elaboration of these Memoranda would strengthen measures against IUU fishing and assist in eliminating ports of convenience.

Internationally agreed market-related measures

29. The Consultation agreed that a fundamental means of combating IUU fishing was to financially deprive fishers and others of the benefits derived from these activities. The restriction of trade for catches taken by IUU fishing should, consistent with World Trade Organization (WTO) regulations, be more actively promoted with a view to closing markets. Transparency mechanisms that would permit ready identification of IUU-caught product were essential if such market-related measures were to have a significant impact on IUU fishing.

30. Some delegations indicated the importance of private sector initiative such as the activities of the Coalition of Legal Toothfish Operators (COLTO) designed to prevent IUU fishing.

Regional fisheries management organizations

31. The Consultation noted that RFMOs played a pivotal role in galvanizing regional action against IUU fishing and related activities. It was stressed that regional cooperation should be enhanced so as to limit IUU fishing opportunities. A number of initiatives were proposed including strengthening informal and formal networks between RFMOs and closing regional governance gaps that permitted IUU fishers to operate.
Special requirements of developing countries with respect to IUU fishing

32. The Consultation underscored the importance of technical and financial assistance to support developing countries enhance their national capacity to implement the IPOA-IUU through the elaboration of NPOAs-IUU. This issue had been identified by many countries as a major constraint in the implementation of the IPOA-IUU.

33. The Consultation noted that FAO gave high priority to the assistance for the elaboration of NPOAs-IUU but that the human and financial resources necessary for this purpose was limited. The Consultation was advised that the FishCode Programme, a multi-donor programme, served to promote the implementation of the Code of Conduct for Responsible Fisheries and its IPOAs. The need to expand the activities and resources of this programme was noted. In addition, some Regular Programme funding through the FAO Technical Cooperation Programme, had been directed towards the elaboration of NPOAs-IUU.

34. In addition to FAO assistance, the Consultation was advised of the establishment of a Fund under Part VII of the 1995 UN Fish Stocks Agreement. This Fund, to be jointly administered by FAO and the United Nations Division for Ocean Affairs and the Law of the Sea (UN/DOALOS), would assist developing countries party to the Agreement meet their obligations under the Agreement. The Consultation was further advised that a World Bank initiative to assist developing countries achieve sustainability in fisheries could also support their efforts to eradicate IUU fishing.

Main recommendations

35. The Consultation urged countries that had not yet joined the MCS Network to consider doing so as an important step towards further limiting IUU fishing.

36. The Consultation stressed the importance of elaborating and implementing NPOAs-IUU and urged countries that had not yet developed their national plans to do so.

37. The Consultation encouraged flag States to ensure that they maintained fishing vessel registers and records and authorized vessels to fish, irrespective of whether they operated in zones of national jurisdiction or on the high seas. It was noted that States that did not maintain such registration or provide appropriate authorizations to fish should do.

38. The Consultation underlined the importance for all RFMOs to elaborate and implement regional plans of action to combat IUU fishing as envisaged in the IPOA-IUU.

Actions directed to FAO

39. The Consultation encouraged FAO to continue to promote the acceptance, ratification and implementation of the 1993 Compliance Agreement and the 1995 UN Fish Stocks Agreement as a means of strengthening fisheries management and of reducing the incidence of IUU fishing.

40. The Consultation recognized FAO’s work in promoting MCS programmes to improve fisheries management and urged that they be continued.
41. The Consultation agreed that FAO should continue to support the work of the MCS Network as a means of expanding membership and combating IUU fishing.

42. FAO was encouraged to continue its global evaluations of IUU fishing drawing on both national and regional data and information, as well as from other sources, for this purpose.

43. The Consultation encouraged FAO to continue its work relating to port State measures.

44. The Consultation noted that FAO facilitated biennial meetings of regional fishery bodies. It recommended that FAO expands its efforts to encourage further cooperation among RFMOs in their efforts to combat IUU fishing.

45. The Consultation proposed that FAO undertake an objective review of gaps in regional cooperation through RFMOs or arrangements.

46. The Consultation urged FAO to continue to provide technical assistance to developing countries to enable them to elaborate their NPOAs-IUU. FAO could also assist developing countries define their development needs more precisely to facilitate the channeling of bilateral assistance to meet those needs.

**ACTIONS TAKEN BY MEMBERS AND RFMOs TO IMPLEMENT THE IPOA-CAPACITY**

47. As background to the deliberation on actions taken to implement the IPOA-capacity, the Secretariat introduced document TC IUU-CAP/2004/4, Implementation of the International Plan of Action for the Management of Fishing Capacity (IPOA-capacity): Reviews and Main Issues. The report was based on questionnaires returned by 80 member States on their activities as well as results of regional reviews.

48. Most of these States have embraced the principles of the IPOA-capacity and applied these to their fisheries. Major constraints to progress included difficulties in controlling or regulating access to all fisheries (industrial and small-scale) and in moving towards rights-based-fisheries as well as the related issues of finding alternative employment for displaced fishers and of resisting pressures of interested stakeholders including by industry (harvesting and processing) not to reduce fleets or catch; difficulties in MCS; and lack of institutional capacity to develop and implement capacity management plans, including transition strategies, as well as undertake the appropriate research required (for example, stock and capacity assessments). These constraints were particularly serious for developing countries.

49. The Consultation noted that while some progress has been made in implementing the IPOA-capacity, increased efforts were required.

**Measurement and assessment**

50. Most delegations reported that efforts were being made to improve their vessel registers or records to include all fishing vessels and improve their data collection systems and analyses, taking note of the difficulties involved when assessing the extensive small scale fisheries in many States.
51. The consultation, having noted the widely diverging parameters used to measure fishing capacity, identified the need to use common parameters acceptable to all Members. It was noted that assessment of fishing capacity was difficult as the efficiency of fishing vessels continues to increase with improved technology, even though the size of the vessel remains the same or even decreases. Many delegations noted that capacity must be related to the status of the fisheries resources and, in many cases, this resource information was unavailable.

Management of capacity

52. Delegations reported on action they were taking, such as implementing and amending new fisheries legislation, regulations and policy and adoption of a suite of management tools (both input and output controls) to manage capacity.

53. With reference to small-scale fisheries, many delegations reported on efforts to strengthen fisheries management in coastal areas to reduce conflicts and described the movement towards management decentralization and co-management involving greater participation of local authorities and stakeholders. It was noted that in small-scale fisheries the tradeoffs between employment/livelihoods and sustainable resources was the most difficult and involved many other sectors and authorities. Many developing States reported on implementing policies such as directing fishing capacity further offshore, providing alternative livelihoods through such enterprises as aquaculture and eco-tourism. The importance of awareness raising and consensus building on access and capacity issues was noted.

54. For industrial fisheries, several delegations described their efforts to address overcapacity issues through rights-based approaches and individual transferable quota (ITQ) systems, in particular. Some delegations reported to have discontinued subsidies that lead to capacity expansion in the past.

55. Most delegations reported that they have made efforts to improve their MCS, but many difficulties still remained, especially in developing countries, with respect to fleet and catch monitoring. VMS was reported as being increasingly implemented in industrial fisheries.

56. The Consultation agreed that the management of capacity was a global issue requiring cooperation at all levels with RFMOs playing a lead role as regards international fisheries.

57. Delegations from many developing States requested assistance from FAO, donors and other countries in preparing and implementing their NPOAs. Some delegations noted the time required to successfully implement NPOAs should not be underestimated as many stakeholders, government Departments and NGOs need to be involved and committed.

Reduction of overcapacity

58. Many delegations gave information on their progress in scaling down the size of their industrial fleets through buybacks, transfers, reduction in subsidies, freezing the number of vessels linked to other more general fisheries management measures. Several lessons learnt by past experiences were noted including the need to take into account the continuous...
improvement in technology and also managing fishers expectations in terms of compensation during transition phases.

59. The Consultation noted that technical efforts by FAO and other specialists to lay the groundwork for implementing the IPOA-capacity makes a distinction between excess capacity, which is largely self-correcting through market forces, and over-capacity, which requires intervention by fisheries managers. To ensure the most effective use of the limited resources of FAO, RFMOs and States, efforts to implement the IPOA-capacity have focused and should continue to focus on the issue of over-capacity where such intervention can have a positive effect.

**Transfer of capacity**

60. The Consultation recognized that applying buy backs schemes without scrapping the vessels could simply result in a transfer of capacity from one fishery to another. In cases where capacity was transferred through access arrangements, procedures should be adopted to control and manage such transfers at a global and/or regional level.

**High-seas issues**

61. The Consultation agreed that overcapacity was a major concern in high seas’ fisheries. The fishing States involved in high seas’ fishing and those that have allowed rapid expansion of their fleets together with those coastal States that allowed this increase to occur should be responsible for its reduction. States that have acted responsibly should not be disadvantaged.

62. The Consultation also recognized that cooperation between States was critical and that RFMOs had a major role to play in assessing capacity and developing plans to manage and reduce it, where overcapacity exists.

**Main recommendations**

63. The Consultation urged:

- States to continue and improve their fleet monitoring programmes;
- RFMOs to develop plans of actions for capacity management; and
- States to continue the preparation and implementation of NPOAs, noting the need for a long-term policy framework.

**Actions directed to FAO**

64. FAO should:

- provide technical assistance to developing States to prepare and implement their NPOAs;
- provide simplified concepts and terminology relating to capacity management in relation to resource sustainability and socioeconomic concerns; and establish common parameters for fleet monitoring;
• design a programme to monitor fishing capacity management effort;
• publish case studies/examples of best practice used in capacity assessment and management; and
• undertake a global review of fleet capacity by regions.

INTERACTIONS BETWEEN IUU FISHING AND FISHING CAPACITY

65. The Consultation noted that there was a clear linkage between IUU fishing and fishing overcapacity. Overfishing resulted directly from overcapacity which in turn led to IUU fishing. For this reason, more appropriate fisheries management and capacity controls were necessary to prevent IUU fishing. Nonetheless, the Consultation recognized that overcapacity was not the only cause of IUU fishing. Other considerations were also fundamentally important and the Consultation noted that many of these issues were global in nature and required global solutions.

66. The Consultation reiterated that the full and effective implementation of the IPOA-IUU and the IPOA-capacity required a firm political commitment by governments. This commitment was essential for the management of national fisheries and internationally through the regional management of fisheries. In RFMOs, members must have the political will to implement the decisions agreed and adopted if sustainability was to be achieved.

67. The Consultation expressed its concern about the transfer of fishing capacity noting that globally-agreed measures should be adopted in relation to such transfers. Some delegations proposed, for example, that when a State decommissioned vessels and permitted them to be exported, the State of origin should ensure that certain conditions were met. The exporting State should ensure that the recipient State had committed itself to certain international obligations such as ratification of the 1995 UN Fish Stocks Agreement and acceptance of the 1993 FAO Compliance Agreement. In the event that a receiving State had not assumed these obligations, the exporting State should prohibit the transfer of vessels. They further noted that some RFMOs had developed lists of flag States that failed to meet their international obligations. The exporting State should also verify that the recipient State was not included on one of these lists.

68. With respect to the transfer of vessels, the Consultation agreed that measures adopted should be sufficiently flexible to ensure that the legitimate expansion of fleets in developing countries was not prejudiced. In this regard, the Consultation underscored the fact that developing countries have the right to develop fleets in a sustainable manner. It was pointed out by some delegations that countries should not be penalized for overcapacity problems to which they had not contributed.

69. The Consultation recalled that all fishing vessels irrespective of where they fished should be properly authorized. It was agreed that port States should refuse access to vessels for the transshipment of catches if the vessels have not been licensed to fish by a competent authority. The Consultation urged COFI to consider and adopt principles and guidelines for the establishment of Regional Memoranda of Understanding on port State measures.

70. Some States noted that a way of promoting cooperation in fisheries management and
development would be for States to enter into bilateral or regional partnership arrangements to promote sustainable fisheries. Such arrangements could be mutually beneficial in promoting a sustainable industry in developing countries while accommodating surplus vessels from flag States or historical arrangements.

71. The Consultation took note that RFMOs were required to coordinate regional action to reduce overcapacity and to combat IUU fishing. Some delegations pointed out that, in the absence of RFMOs, they were not in a position to develop and coordinate action when confronted with problems of common concern. The Consultation agreed that IUU fishers were exploiting weaknesses in regional governance and that RFMOs, acting individually and as a group, were required to determine how these gaps could be minimized or eliminated.

Main recommendations

72. The Consultation recommended that RFMOs undertake evaluations of the steps being taken to implement the IPOA-IUU and the IPOA-capacity, through appropriate mechanisms, including where relevant third party reviews.

Actions directed to FAO

73. The Consultation noted that there was a proliferation of work relating to IUU fishing and it encouraged FAO to develop a central repository for information relating to IUU fishing.

74. Recognizing the capacity and financial constraints in many developing countries, the Consultation reaffirmed the need to support developing countries and urged FAO to give high priority to assisting their implementation of the IPOA-IUU and IPOA-capacity. The Consultation suggested that FAO should elaborate a framework for that purpose.

75. The Consultation proposed that FAO facilitate interaction among stakeholders to ensure that the IPOA-IUU and IPOA-capacity are implemented fully and effectively and in a holistic manner.

MAJOR RECOMMENDATIONS

76. The Consultation reaffirmed the importance of Resolution 6/2003 “Progress Report on Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing” adopted at the Thirty-second Session of FAO Conference in 2003 and identified recommendations for consideration by the Twenty-sixth Session of COFI and the FAO Ministerial Meeting on Fisheries in 2005 to ensure effective and full implementation of the Resolution as well as of the IPOA-IUU and IPOA-capacity. These recommendations are provided in Appendix E to this report.

SUGGESTIONS ON THE EXPANDING TUNA FLEET IN WESTERN AND CENTRAL PACIFIC OCEAN

77. The Consultation examined, under exceptional circumstances, the particular situation of the tuna fisheries in the western and central Pacific Ocean. In view of the urgency of the situation, and the fact that the relevant RFMO is still in the process of becoming operational, the Consultation made the following suggestions, as contained in paragraph 79.
78. Although RFMOs should adopt management measures for limitation of capacity in conformity with their management objectives, the Consultation noted with concern still expanding fishing capacity of large-scale tuna fishing vessels in western and central Pacific. To ensure effective implementation of IPOA-capacity in the region, in accordance with paragraphs 39 and 40 of the IPOA, the following measures were suggested to be taken urgently.

79. Where fishing capacity in the region is undermining the achievement of sustainable tuna fisheries based upon stock assessment on relevant species, particularly those with high economic values:

- cessation of introduction of large-scale tuna fishing vessels over the existing fishing capacity in the fishery by States and fishing entities with large high seas fishing fleets;

- restraints of issuance of fishing authorizations by coastal States in the region and/or by Flag States to foreign owned and operated large-scale tuna fishing vessels if it leads to an increase in the existing fishing capacity;

- collection, exchange and disclosure to the extent possible under domestic law, of information on the activities of international business entities such as trading companies undermining effectiveness of the IPOAs so that the concerned States and fishing entities can take appropriate cooperative actions to prevent such activities;

- implementation of a fleet reduction programme by any State or fishing entity whose nationals or residents caused significant expansion of tuna fishing capacity in the region in the recent years contrary to RFMOs recommendations or the IPOA-capacity;

- cooperation and coordination among RFMOs, Coastal States and flag States to avoid transfer of overcapacity from one region to another, and from tuna fisheries to other fisheries.

ADOPTION OF THE REPORT

80. The report of the Technical Consultation was adopted on 29 June 2004.
APPENDIX A

Agenda

1. Opening of the Technical Consultation
2. Election of the Chairperson
3. Adoption of the Agenda and arrangements for the Technical Consultation
4. Election of Vice-Chairpersons and designation of Rapporteur
5. Review of available information on the present status of fishing capacity and IUU fishing
6. Actions taken by Members, Regional Fisheries Management Organizations (RFMO) and International Non-Governemental Organizations (INGOs) to implement the IPOA-IUU Fishing
7. Actions taken by Members and RFMOs to implement the IPOA-Capacity
8. Wrap up discussion on possible interactions between IUU-Fishing and Fishing Capacity
9. Adoption of the report
APPENDIX B

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APPENDIX C

List of documents

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TC IUU-CAP/2004/2 Action taken by FAO Members and FAO to implement the international plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU) – Executive Summary
TC IUU-CAP/2004/3 Action by Regional Fishery Bodies or Arrangements to prevent, deter and eliminate illegal, unreported and unregulated fishing

TC IUU-CAP/2004/Inf.1 Rev.2 List of documents
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TC IUU-CAP/2004/Inf.4 International action and responses by Regional Fishery Bodies or Arrangements to prevent, deter and eliminate illegal, unreported and unregulated fishing (FAO Fisheries Circular No. 996)
TC IUU-CAP/2004/Inf.8 Statement of Competence and Voting Rights by the European Community and its Member States
Good morning, ladies and gentlemen:

We all know that IUU fishing has been propelled to international prominence because it undermines sustainable fisheries management, reduces the social and economic contribution of fisheries to food security and livelihoods and can have dramatic impacts on the stocks and their associated ecosystems. To a greater or lesser degree, IUU fishing is found in all capture fisheries, irrespective of their location, species targeted, fishing gear employed or intensity of exploitation.

On 9 December 2003, the FAO Conference adopted a Resolution concerning progress with the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). The Resolution noted the continuing high and growing incidence of IUU fishing and related activities as well as the lack of political will, commitment and capacity by some Governments to deal effectively with such fishing or to meet their obligations under international law. The Resolution urged States and regional fisheries management organizations (RFMOs), to take direct and indirect action against IUU fishing on all fronts, as envisaged by the IPOA-IUU.

This Technical Consultation will have to review and address these actions. In so doing it can take advantage of the information that is presented in documents TC IUU-CAP/2004/2 and 3 and information papers TC IUU-CAP/2004/Inf.3 and Inf.4. and was collected through self-assessment questionnaires. Of a total of 82 Members (or 42 percent of the FAO Membership) which responded, 64 did so before the twice extended cut off dates and the information contained in their responses is reflected fully in the analysis. A further nine Members submitted their questionnaires after the final cut off date and their responses are contained in the analysis of document TC IUU-CAP/2004/Inf.3. An additional nine responses were received after the papers were finalized, translated or were in the final stages of translation.

15 responses have been sent by regional fishery management organizations and regional fishery bodies. Overall, this gives us a reasonably comprehensive picture at the national, regional and global levels.

This is also a good opportunity for those Members which have not responded or whose response could not be incorporated into the analysis, to present their own information and for having it recorded as appropriate in the report of the Session, in addition of enriching our debate.
Ladies and gentlemen:

The many dimensions of IUU fishing and its dynamic nature leave no room for complacency. Our commitment to obliterate one of the main obstacles facing the achievement of responsible and sustainable fisheries means that deeper and broader efforts are needed to ensure that the IPOA-IUU is implemented fully and effectively in order.

From the information it has received, FAO is aware that Members are highly conscious of the need to implement proactively the IPOA-IUU and have adopted measures to combat IUU fishing. Highly encouraging are the reports by many Members that they have started to enact new laws specifically addressing IUU fishing. In addition, 25 percent of respondents advised that they had started to formulate national plans of action to combat IUU fishing (NPOAs-IUU). However, control over nationals, flag State controls and market related mechanisms to fight IUU fishing emerged as the weakest areas in the implementation of the IPOA-IUU, while coastal State duties are being implemented to an intermediate extent.

Furthermore, it must be noted that a number of NGOs have also undertaken valuable initiatives to prevent, deter and eliminate IUU fishing, especially among more vulnerable fishing communities and groups of fishworkers.

Fisheries monitoring, control and surveillance (MCS) is a key element of fisheries management. Many Members advised that their MCS programmes are being strengthened and new technologies such as vessel monitoring systems (VMS) are being considered or implemented. Some Members also noted the need for effective MCS cost-recovery and self-financing mechanisms. Such an approach to the funding of MCS programmes would assist countries achieve a higher degree of compliance with national fishery policy and laws while, at the same time, facilitating the implement the IPOA-IUU.

With respect to port State measures, although Members have generally established fairly comprehensive controls, a weak link is the lack of a strategy for cooperation in the implementation of regionally agreed port State measures. FAO has commenced work on promoting such a strategy and will, with the concurrence of the Committee on Fisheries, move forward on this work.

The IPOA-IUU itself stresses the importance of international cooperation in its implementation, especially at the regional level. Harmonization of legal frameworks and MCS systems, development of joint access rules and building of networks that will become more impenetrable to IUU fishers, underpin such cooperative arrangements. Indeed, a failure to heed the importance of regional cooperation in our efforts to combat IUU fishing could well spell doom for well-conceived nationally implemented measures if they are developed in isolation and without the support and cooperation of neighbouring countries.

As some Members have reported, the lack of financial and human resources inhibits the development of NPOAs-IUU and other forms of cooperation. Countries have called for national and regional training programmes related to IUU fishing as means of enhancing human and institutional capacity.
RFMOs have reported that to some extent they have been implementing the various tools identified in the IPOA-IUU. On a highly positive note, five RFMOs advised that their measures to combat IUU fishing had already taken root and that they were deterring such fishing. RFMOs also reported that they are continuing to adopt a broader range of measures to implement the IPOA-IUU.

Most RFMOs have identified as main causes of IUU fishing the lack of effective flag State control by both members and non-members, the operation of open registries and the quest for profit from unauthorised fishers. Although some advances had been made regarding Flag State control, improved measures are still needed.

A burning issue for most RFMOs and a major challenge in combating IUU fishing is the need for effective MCS programmes. Encouragingly, trade and marketing measures, a major issue for those RFMOs that have already adopted such measures, were described as both effective and having a positive impact on reducing IUU fishing. One of the most significant and continuing challenges that RFMOs are facing is estimating the extent and impacts of IUU fishing in their convention areas.

Taking a global view of IUU fishing issues before the Consultation, it can be concluded that headway is being made nationally and regionally to implement the IPOA-IUU, in spite of the fact that the pace is slower than the international community would like to see. Spirited commitment and concerted action is needed to overcome the constraints and to optimize the results of efforts undertaken at the national, regional and global level, in order to give life to the IPOA-IUU. This is the only path to ensure that the social and economic interests of fishing communities, law-abiding fishers and generations not yet born are not jeopardized.

Thank you very much, ladies and gentlemen, for you attention.
Major recommendations of the Technical Consultation

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

1) to reaffirm the importance of the paragraph 12 of the resolution and to apply this paragraph also to implementation of IPOA-capacity, in particular taking account of the needs:
   - to ensure full utilization of possible financial and technical sources including relevant FAO programmes, bilateral fishery assistance and the Fund established pursuant to Part VII of the 1995 UN Fish Stocks Agreement for the enhancement of necessary capacities of evaluation of stocks, their sustainable management and their control;
   - to invite FAO to reinforce its assistance to developing counties for formulation and implementation of their fisheries management and development policies and definition of their specific needs;
   - to invite States whose nationals have fishing activities in developing countries’ waters to assure the cooperation in partnership with those countries.

2) to promote cooperation and harmonization of minimum standards among coastal States at a regional level where appropriate for sustainable management of shared fish stocks and invite FAO to explore a possible use of regional coordinators in FAO programmes for such promotion;

3) to invite States, either directly, through RFMOs, through other regional or subregional arrangements, to develop measures to control flagging and re-flagging of fishing vessels to flag States not duly fulfilling their obligations in accordance with the relevant provisions of the 1995 UN Fish Stocks Agreement, the 1993 FAO Compliance Agreement or additional requirements of such RFMOs or regional arrangements or duties deriving from relevant IPOAs;

4) to request States either directly, through RFMOs, through other regional or subregional arrangements, to develop measures to control and monitor transshipment of catches at sea;

5) to urge FAO and all Parties of the 1993 FAO Compliance Agreement to implement promptly the Article VI of the Agreement and all non-Parties to take actions consistent with the Article immediately;
6) to request RFMOs that have not already done so to consider, as a matter of priority, the assessment of capacity and the development and implementation of capacity management schemes in conjunction with other appropriate management measures for fisheries under their purview, taking into account all relevant factors and in a manner consistent with the rights and obligations of all states under international law;

7) in parallel to implementation of paragraph 10 of the resolution, to request FAO to study and assess fishery management aspect of the “genuine link” issue as invited by UNGA Resolution 58-240 as a matter of priority, in particular to determine beneficial ownership of fishing vessels used in IUU fishing operations;

8) in recognition of the range of work being undertaken by various RFMOs on the IUU fishing and over-capacity issues, call on the FAO to promote coordination on such work, to establish a database of the available information including any available list of IUU vessels identified and publicized by RFMOs and to make information on IUU fishing available through the FAO Fisheries internet site;

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

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

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

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

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

14) to recommend that RFMOs adopt effective measures to enhance compliance by contracting parties to RFMOs, pursuant to paragraph 84 of the IPOA-IUU;
15) in conformity with paragraph 25 of the IPOA-IUU, encourage all States and all interested stakeholders including industry, fishing communities and non-governmental organizations to implement the national plans of action as soon as possible, and to actively participate, with the full support of FAO, in the international network of cooperation and coordination of the monitoring, control and surveillance of fishing activities, in accordance with resolutions 28, 28.1 and 28.2 of the IPOA-IUU;

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

17) to encourage all States either directly through RFMOs through other regional and subregional organizations and in conformity with Section II of the IPOA-capacity, to implement the national plans of action as soon as possible taking due account of the special requirements of developing countries including those for small-scale fisheries.
The Technical Consultation to review progress and promote the full implementation of the International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and the International Plan of Action for the management of fishing capacity was held at FAO headquarters, Rome, from 24 to 29 June 2004.

The Technical Consultation made major recommendations on how to strengthen international cooperation on managing fishing capacity and combating IUU fishing. It also asked FAO to undertake a series of actions to facilitate effective and full implementation of these two IPOAs. Noting in particular an ongoing build-up of capacity in tuna fisheries in the western and central Pacific Ocean, the Technical Consultation suggested that governments in the region should lend priority attention to addressing the situation, including halting introductions of additional large-scale fishing vessels.