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COMMITTEE ON FISHERIES

Thirty-second Session

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COMBATTING ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING

Executive Summary

This document gives an overview of the status and implementation of the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the Agreement), together with FAO's capacity development efforts in relation to the Agreement. Progress on the development of the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels is also reported. The outcomes of the work carried out by FAO in relation to the estimation of the magnitude of IUU fishing are described and options for further work on this subject are indicated. The document also reports on FAO's collaboration with other international organizations and networks in combatting IUU fishing. The rationale to declare an "International Day for the Fight against Illegal, Unreported and Unregulated Fishing" is also addressed in the document.

Suggested action by the Committee

The Committee is invited to:

- Welcome the coming into force of the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the Agreement), urge other FAO Members to become Party to the Agreement and invite Parties to hold an inception meeting followed by a meeting of the ad hoc working group to be established under Article 21 of the PSMA.
- Stress the capacity development needs of developing States in the effective implementation of the PSMA and complementary instruments and encourage Members to support FAO's PSMA global capacity development programme.
- Note the continued progress concerning the development of the Global Record as a supporting tool in the implementation of the PSMA and other international instruments to fight IUU fishing, in particular through the formation and work of the Global Record Informal Open-

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Ended Technical and Advisory Working Group (GRWG) and three Specialized Core Working Groups.

- Provide further guidance on the Global Record in the light of the conclusions and advice given by the GRWG.
- Provide guidance on the follow-up actions related to estimation of the magnitude of IUU fishing in the light of the conclusions of the study carried out by FAO.
- Consider the recommendations of the Third Session of the Joint FAO/IMO Ad Hoc Working Group on IUU Fishing and related matters and note developments on combating IUU fishing in other international fora.
- Endorse the proposal to declare an “International Day for the Fight against Illegal, Unreported and Unregulated Fishing” and request that FAO coordinates related activities.

I. THE STATUS AND IMPLEMENTATION OF THE 2009 FAO AGREEMENT ON PORT STATE MEASURES

1. The 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the Agreement) opened for signature on 22 November 2009 and remained open for one year. In that period 23 countries and the European Union (EU) signed the instrument. Since the thirty-first session of COFI, twenty Members deposited their instrument of adherence, bringing the total number of Parties to the Agreement to thirty¹. The Agreement entered into force on 5 June 2016, 30 days after the date of deposit with the Director-General of FAO of the twenty-fifth instrument of ratification, accession, approval or acceptance. A number of Regional Fisheries Management Organizations (RFMOs) have started or completed the process of aligning their port control schemes and measures with the provisions of the PSMA.

2. With the Agreement now in force, Parties may consider convening an inception meeting which could address, *inter alia*, the establishment of the Ad Hoc Working Group under Article 21(6) of the Agreement which is expected to periodically report and make recommendations to the Parties on funding mechanisms in support of assistance to developing States Parties. The Terms of Reference (ToRs) for this ad hoc Working Group were drawn up by a technical meeting in 2011² and endorsed by COFI at its thirtieth session in 2012. According to these ToRs (paragraph 10) the first meeting of the ad hoc Working Group shall be convened between 90 and 120 days after the Agreement has entered into force. The ToRs of the funding mechanisms were also drafted by the technical meeting in 2011 but need to be reviewed and adopted by the Ad Hoc Working Group.

3. Further to the above, the Committee on Fisheries may wish to recall that the Agreement requires that FAO convenes a meeting of the Parties four years after the Agreement enters into force in order to review and assess its effectiveness (Article 24 (2)).

4. During the intersessional period, FAO continued to deliver its global capacity development programme to facilitate adherence to the Agreement and contribute to the development of national capacity to maximize the benefits of its implementation through five regional workshops³. Two hundred and sixty-nine participants from a total of 80 States, of which sixty-three were coastal and small island developing States, benefitted from the workshops. Eight RFBs, thirteen inter-governmental and non-governmental organizations (NGOs) and the European Union collaborated in the delivery of the workshops. The outcomes of the workshops revealed that in order for the the Agreement to be effectively implemented worldwide, fisheries policy and legislative frameworks, institutional capacity and coordination, operational capacity to effectively undertake monitoring, control, and surveillance (MCS), together with enforcement and prosecution capacity, need to be substantially strengthened at both national and regional levels. Multiple requests from States for assistance were received by FAO over the past two years, including those affected by trade sanctions imposed by importing States or regional economic integration organizations due to non-compliance with set requirements.

5. In this regard, FAO is seeking to broaden and scale up its capacity development actions to assist developing countries in the implementation of the PSMA, complementary instruments, including the FAO Voluntary Guidelines for Flag State Performance (VGFSP), and regional mechanisms to combat IUU fishing. FAO has developed a five-year capacity development programme which will be implemented within the framework of FAO's Global Partnership for Responsible Fisheries (FishCode) through projects supported by partners and donors, together with FAO Technical Cooperation Programmes executed at national, regional and inter-regional level. The programme will aim to support countries in: (i) formulating or reviewing relevant fisheries policies and laws, with a view to ensuring

¹ For more information: www.fao.org/legal/treaties/treaties-under-article-xiv/en/

² <http://www.fao.org/docrep/015/mc882e/mc882e00.pdf>

³ Supported by the Government of Norway through the project entitled "The effective implementation of the 2009 FAO Agreement on Port State measures to combat IUU fishing" (GCP/GLO/515/NOR). Regions covered included: Caribbean, Latin America, Atlantic coast of Africa, Northwest Indian Ocean (including adjacent seas and gulfs), and the Mediterranean and Black Sea.

compliance with the PSMA and other relevant international instruments; (ii) strengthening MCS institutions and systems, including through South-South Cooperation and mechanisms for regional harmonization, coordination and cooperation through RFBs; (iii) enhancing capacity to improve flag State performance in line with the VGFSP, to perform inspections in port and to more effectively take action against persons and entities engaged in IUU fishing, and; (iv) implementing market access measures, such as catch documentation and traceability schemes.

6. Parties to the PSMA may also consider using the above-mentioned programme as one of the frameworks for assistance to be provided under Article 21 through the funding mechanisms referred to in paragraph 2.

II. GLOBAL RECORD OF FISHING VESSELS REFRIGERATED TRANSPORT VESSELS AND SUPPLY VESSELS (GLOBAL RECORD)

7. The Global Record, as a tool that supports the implementation of international instruments such as the PSMA in the concerted fight against IUU fishing, aims to increase transparency, traceability and dissemination of data on the global fishing fleet and its operations. In line with COFI's requests at its last session, the development of the Global Record has progressed in a number of areas.

8. The Global Record Informal Open-Ended Technical and Advisory Working Group (GRWG) was established to provide advisory services, specifically to clarify outstanding issues and to find a solution for long-term financing. Two meetings of the GRWG were convened (23-25 February 2015 and 21-23 March 2016) and provided guidance on the general way forward for the Global Record. The GRWG recommended the creation of Global Record Specialized Core Working Groups (GRCGs) to deal with particular matters at the technical level, and three GRCGs were launched to discuss issues related to data requirements, data exchange and third party data, respectively. The outputs of these groups are being consolidated in the form of draft guidelines that define the technical specifications for Members to contribute to the Global Record programme.

9. FAO is collaborating with both developed and developing countries to implement an operational Global Record pilot project with broad regional coverage. Some Members gave their commitment to participate in the pilot project and the Global Record programme is supporting a number of partner countries in building their capacities and coordinating the submission of data to the Global Record. Wider participation would secure the successful implementation of the Global Record.

10. The GRWG acknowledges that States are responsible for data and its provision to the Global Record. However, in light of the immediate difficulties that some States may face in providing information to the Global Record pilot project, the GRWG has considered on an interim basis an option of using a vessel data from independent and reputable sources, specifically the Information Handling Services Maritime and Trade (IHSM), in its role as the manager of the IMO number that is being used as the UVI for the Global Record. The legal and financial implications of such a option require thorough examination.

11. Following the Thirty-first session of COFI, a multi-donor Trust Fund was set up. So far, contributions have been received from the European Union, Iceland, Spain and the United States of America, covering the first two years of the project. In line with the principles of results-based management, medium-term financing solutions, as opposed to the current annual system, are being sought by the GRWG.

12. There is a long-standing cooperation between IMO and FAO on subjects related to the fisheries sector. With regard to the Global Record, as agreed by COFI 31, the IMO number is being used as the UVI for Phase 1, and Members are encouraged to ensure that IMO numbers are assigned to the relevant fishing vessels of their fleets. In this regard, the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters (JWG), at its Third Session, recommended that FAO and IMO explore the further possibility to expand the application of the IMO number scheme to fishing vessels that are currently outside its scope, in particular fishing vessels of less than 100 gross tonnage.

13. Further information is also provided in documents COFI/2016/Inf.12 and COFI/2016/SBD.12-14 as well as in the Global Record website (www.fao.org/fishery/global-record/en).

III. COLLABORATION WITH INTERNATIONAL ORGANIZATIONS AND NETWORKS

14. The Third Session of JWG was held in London, United Kingdom, on 16-18 November 2015. The JWG identified areas of common interest to FAO and IMO, and ILO, as appropriate, with regard to the fight against IUU fishing, and recommended possible future collaboration in relation to: (a) the implementation of the Agreement; (b) the IMO Ship Identification Number Scheme and the Global Record; (c) vessel identification, monitoring and tracking; (d) assessment of the performance of flag States; (e) security measures applicable to fishing vessels; (f) ILO Work in Fishing Convention, 2007, including flag State and port State guidelines; (g) marine debris; (h) IMO legal framework, in particular on the implementation of the Cape Town Agreement of 2012; and (i) future collaboration between FAO and IMO.

15. With regard to future collaboration between FAO and IMO, the JWG recommended: (a) convening future meetings of the group, while reiterating the earlier recommendation that the interval between JWG meetings should not exceed five years; and (b) that the collaboration between FAO and IMO, in the context of the JWG, should be extended to include ILO. Furthermore, the JWG recommended that the outcome of its meetings be reported jointly by FAO and IMO for detailed consideration by relevant governing bodies of the two Organizations, commencing with the report of the third JWG meeting.

16. The full report of the Third Session of the JWG is provided in document COFI/2016/SBD.8.

17. FAO also participated in the ILO Meeting of Experts to Adopt Flag State Guidelines for the Implementation of the Work in Fishing Convention, 2007 (No.188). The guidelines adopted at this meeting are to “be applied in recognition of the broader international duties and obligations of flag States regarding the flagging and control of fishing vessels, together with their responsibilities to manage fishing and fishing-related activities in a manner that ensures the conservation and sustainable use of living marine resources” (page 1, paragraph 2, footnote 3). The guidelines also make reference to the FAO Voluntary Guidelines for Flag State Performance, the FAO/ILO/IMO Implementation Guidelines on Part B of the Code, the Voluntary Guidelines and the Safety Recommendations, and the FAO Technical guidelines on best practices to improve safety at sea in the fisheries sector.

18. The Fifth Global Fisheries Enforcement Training Workshop (GFETW) organized by New Zealand’s Ministry for Primary Industries (MPI), in partnership with the International Monitoring, Control and Surveillance Network and in collaboration with FAO, was convened in Auckland, New Zealand from 7–11 March 2016⁴. The Workshop focused on regional and global efforts in combatting IUU fishing using effective MCS tools including enforcement to protect the sustainability and economic viability of fish stocks. The GFETW promoted the exchange of best practices in the field of new MCS technologies and methodologies, as well as successfully introduced cost effective MCS tools. Amongst other matters, the Workshop highlighted the benefits of developing an IUU Fishing Risk Assessment Framework in support of national, regional and global efforts to combat IUU fishing. A summary of the proceedings of the fifth GFETW is available in document COFI/2016/SBD.10.

19. Other contributions by FAO to international meetings related to combating IUU fishing included meetings on fisheries crime led by the United Nations Office on Drugs and Crime, the G7 High-Level Meeting on Maritime Security, a technical workshop on fisheries subsidies proposals in the World Trade Organization organized by the International Centre for Trade and Sustainable Development, together with other regional fora organized by FAO Members.

⁴ The USA (NOAA), Norway (Directorate for Fisheries), the Scottish Government (Marine Scotland), Australia (AFMA) and Canada (Fisheries and Oceans) co-sponsored the Workshop.

IV. ESTIMATION OF THE MAGNITUDE OF IUU FISHING

20. In February 2015 FAO convened a workshop in Rome, Italy, to consider methodologies for estimating the magnitude of IUU fishing at the global level (COFI/2016/SBD.15). The workshop suggested that FAO could: (i) coordinate a ‘Study of IUU fishing studies’ (the study) to review the different methodologies being used to estimate IUU fishing; (ii) lead a process to develop technical guidelines for future studies so they could be conducted in a way that would allow for estimates to be combined to contribute to a global estimate; and (iii) consider indicators of IUU fishing for inclusion in FAO’s bi-annual publication on the State of Fisheries and Aquaculture.

21. The completed study (COFI/2016/SBD.5) found that: (i) there are many different methodologies being used to estimate catches by IUU fishing activities but estimates are not robust and methodologies not consistent; (ii) estimates of global “missing catch” obtained in some studies include catch that is not necessarily derived from IUU fishing; (iii) developing an updated global estimate of catches by IUU fishing activities may have limited benefit due to wide confidence intervals and a lack of clarity over IUU fishing behaviours included; (iv) indicators of IUU fishing to monitor progress in combating IUU fishing need not necessarily include global estimates of volumes of IUU fishing-derived fishery products, and could focus on other aspects such as compliance indicators, numbers of vessels on IUU fishing vessel lists, selected regional or local estimates of catches by IUU fishing based on repeatable and robust methodologies; and (v) FAO might play a role in supporting the development of technical guidelines both on methodologies for estimating catches by IUU fishing and on how to conduct risk-based assessments of IUU fishing.

22. In the light of the conclusions of the study, COFI is invited to provide guidance on: (i) whether an updated global estimate of IUU fishing is desirable, and if so what role FAO should have in supporting/developing such an estimate; (ii) whether FAO should support the development of technical guidelines on methodologies for estimating catches by IUU fishing and conducting IUU risk-based assessments; and (iii) whether reporting on indicators of IUU fishing would be beneficial, and if so what the process should be for proposing, agreeing and reporting on indicators, and what role FAO should play in such a process.

V. PROPOSAL TO DECLARE AN INTERNATIONAL DAY FOR THE FIGHT AGAINST IUU FISHING

23. The 39th session of the General Fisheries Commission for the Mediterranean (GFCM) of the FAO (Milan, Italy, 25-29 May 2015) proposed that an initiative be launched within the remit of FAO to declare an international day for the fight against IUU fishing. Noting that there is currently no internationally recognized day to raise awareness on the importance of the fight against IUU fishing, including the development, adoption and implementation of relevant global instruments, extensive consultations took place with a view to exploring ways of highlighting further the negative impacts of IUU fishing activities. To this end, a proposal to declare an “International Day for the Fight against Illegal, Unreported and Unregulated Fishing” was sent to COFI Members through a circular State letter, prior to the current session, for their consideration.

24. The Committee is invited to consider the above proposal and, should it be endorsed, the proposal will subsequently be submitted to the FAO Council and the FAO Conference, for approval. The proposal would then be submitted to the United Nations General Assembly, through the FAO Director-General, in order to include the “International Day for the Fight against Illegal, Unreported and Unregulated Fishing” in the United Nations calendar of International Days and Observances. This day would be observed on a date to be decided by COFI and any related events will be funded through ad hoc extra-budgetary contributions and would not have any impact on the FAO Regular Budget. FAO would play

a leading role in the organization and the definition of contents and activities for the “International Day for the Fight against IUU Fishing”, including the establishment of a dedicated trust fund.