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COMMITTEE ON FISHERIES

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HIGHLIGHTS OF THE PROGRESS IN THE IMPLEMENTATION OF THE CODE OF CONDUCT FOR RESPONSIBLE FISHERIES AND RELATED INSTRUMENTS

Executive Summary

This paper provides a summary of the analyses on the implementation of the 1995 FAO Code of Conduct for Responsible Fisheries (the Code) and its related instruments by Members, regional fishery bodies (RFBs) and non-governmental organizations (NGOs) since the last report to the FAO Committee on Fisheries (COFI) in 2018. The year 2020 marked the 25th anniversary of the Code, providing an opportunity to conduct a trend analysis of the progress in the implementation of the Code and its related instruments based on reporting by Members through the biennial Code questionnaire. A summary of the results of this analysis is included in this document.

Suggested action by the Committee

The Committee is invited to:

- note the progress on the implementation of the Code and advise on how to address the gaps and constraints identified on various components of the Code in this regard;
- note the results of the trend analysis on the implementation of the Code and its related instruments;
- note the integration of the SDG indicator validation process into the web-based system and advise if any improvements can be made to streamline this process; and
- provide guidance on how to continue to broaden and deepen the implementation of the Code.

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I. INTRODUCTION

1. Article 4 of the 1995 FAO Code of Conduct for Responsible Fisheries (the Code) states, *inter alia*, that FAO will report to the FAO Committee on Fisheries (COFI) concerning its implementation. This document is the tenth report prepared by the COFI Secretariat to present the key findings on the progress of implementation of the Code on the basis of the responses to the questionnaire by Members, RFBs and NGOs. A detailed analysis of the information submitted, namely on the activities and applications of the Code at national level, as well as activities of RFBs and NGOs, is presented in a supplementary information document COFI/2020/Inf.7. Statistical tables summarizing Members' responses are also made available on the COFI Website and in the document COFI/2020/SBD.4 to be read in conjunction with the information document.
2. At its 33rd Session, the Committee noted the record-high response rate to the 2018 Code questionnaire and encouraged Members to maintain this commitment to respond. Furthermore, the Committee welcomed the improvements to the 2018 questionnaire and requested further enhancement of the web-based application and related data management and processing tools, and called for FAO to ensure the readability of the questionnaire in all languages.
3. The Committee also called upon FAO to consult with Members on matters of potential confidentiality in the use of country data and information submitted through the Code questionnaire such as SDG indicator reporting where permission should be explicitly granted by Members for reporting on national progress.
4. In line with the Committee's request in 2018, the Secretariat continued improving the web-based system making efforts to improve the readability of the questionnaire in all languages. Furthermore, the SDG indicator validation process was integrated into the web-based system, ensuring that only Member validated indicator scores would be used for national reporting.
5. For the 2020 report, 119 Members including the European Union (EU)¹ (60 percent of Members²) responded to the questionnaire³, a seven percent decrease in comparison to the 2018 all-time record response rate for the questionnaire. However, seven Members reporting in 2020 had never submitted a questionnaire in the past, and one additional Member reporting in 2020 had not submitted a questionnaire in the last 10 years. Small increases in response rate were noted in comparison to 2018 reporting within the Asia, Europe and Southwest Pacific regions, however the response rate from the Africa region fell from 30 percent in 2018 to 16 percent in 2020.

¹ The EU responded on behalf of its Member States, except for sections 19.2, 19.3, 20, 21, 41 and 51. In the case of 41 and 51, both the EU and its Member States have provided a response.

² In this report, reference to "Members" in the context of the analysis of the responses to the questionnaire refers only to those FAO Members that submitted a response to the questionnaire, whose responses were taken into account in compiling the report.

³ The questionnaire was circulated to FAO Members, RFBs and NGOs by email through the Code questionnaire web-based system on 16 January 2020. Four "registration" reminders and three "submission" reminders were sent between 28 January 2020 and 26 March 2020. Additional notifications were sent between 12 February 2020 and 19 March 2020 to extend the submission deadline from 12 February 2020 to 26 March 2020.

6. 36 RFBs⁴ out of 52 submitted a response to the questionnaire reflecting a 9 percent increase since the 2018 report, while also marking an all-time record response rate from RFBs. In the case of NGOs⁵, 13 submitted a response, an increase of two from 2018.

II. FAO ACTION TO SUPPORT THE CODE'S IMPLEMENTATION

7. FAO supports the Code's implementation in a variety of ways including through regular and field programme activities. Directed activities to support the Code's implementation, including regional and national workshops to increase the Code's implementation, as well as ongoing work for the development of technical guidelines, the translation of some guidelines and assistance to elaborate national plans of action, are regularly undertaken by FAO. A number of programmes at national and regional levels supporting the implementation of the International Plans of Action (IPOAs), voluntary guidelines and strategies have also been developed by FAO to assist Members in increasing their capacity to develop and manage their fisheries and aquaculture sectors in line with the provisions of these supplementary instruments, including through regional mechanisms and cooperation.

8. Since the last report to the Committee in 2018, FAO has published three technical guidelines to support the implementation of the provision foreseen in the Code: Aquaculture development, 9, *Development of aquatic genetic resources: A framework of essential criteria*⁶ in 2018; Aquaculture development, 8, *Recommendations for prudent and responsible use of veterinary medicines in aquaculture*⁷; and Fishing Operations, 1, Supplement 4, *Guidelines to prevent and reduce bycatch of marine mammals in capture fisheries*. The total number of Technical Guidelines in the series is now 33.

III. SUMMARY ON THE PROGRESS OF THE IMPLEMENTATION OF THE CODE BY MEMBERS

9. Almost all Members reported having a fisheries policy in place, and generally Members reported that it was largely in conformity with the Code. Of those that had marine and/or inland fisheries, most reported to have developed and implemented fisheries management plans. In the case of marine fisheries, the most common management measure relates to prohibiting destructive fishing, while in inland fisheries, the most common types relate to using precautionary approaches which provide for conservative safety margins in decision making and recognizing a process for identifying "vulnerable habitats".

10. More than three-quarters of the Members have started implementing the ecosystem approach to fisheries (EAF), and most of these have taken appropriate management action and established ecological, socio-economic and governance objectives. Many have also established monitoring and evaluation mechanisms. Three quarters of the Members have developed Target Reference Points (TRP) for managing fisheries, most of which reported that one or more had been approached. Less than half of those having developed TRPs reported that one or more of which had been exceeded. Several Members reported that indicators other than TRPs were also being used in managing their fisheries. Increasing research activities, limiting fishing effort and strengthening Monitoring, Control and Surveillance (MCS) were the most commonly used remedial actions employed in cases where TRPs were exceeded.

⁴ ACAP, APFIC, BOBP-IGO, CACFish, CCAMLR, CCSBT, CECAF, CIFAA, COFREMAR, EIFAAC, FCWC, GFCM, IATTC, ICCAT, ICES, IOTC, JOINTFISH, LCBC, LVFO, NAFO, NAMMCO, NASCO, NEAFC, NPAFC, NPFC, OSPESCA, RECOFI, SEAFDEC, SEAFO, SIOFA, SPC, SPRFMO, SRFC, SWIOFC, WECAFC and WCPFC.

⁵ Birdlife, CFFA, EBCD, FEAP, GGAP, ICFA, IFFO, ISSA, MSC, NACEE, OPRT, PCT and WFTU.

⁶ www.fao.org/3/ca2296en/ca2296en.pdf

⁷ www.fao.org/3/ca7029en/CA7029EN.pdf

11. Nearly all Members reported to have taken steps to control fisheries operations within and outside of their Exclusive Economic Zones (EEZ). Within the EEZ, this was done largely through strengthening their MCS schemes; outside their EEZ, this was done largely through mandatory authorisation schemes.

12. Bycatch and discards continue to occur in major fisheries of most Members. More than half of the Members have put in place bycatch and discard monitoring schemes, of which close to three quarters have found that these contribute to unsustainability. Of those, all reported to be implementing measures to minimise bycatch and discards.

13. On average, Members reported that abandoned lost or otherwise discarded fishing gear (ALDFG) was of slightly above medium concern, whilst there was little information available on gear loss rates. Half of the Members reported that they had requirements for gear marking. Some of the Members reported the availability of port facilities for fishing vessel waste and recycling of old fishing gear.

14. Aquaculture development occurs in most countries, however slightly less than half of the Members have complete and enabling policy, legal and institutional frameworks specifically for aquaculture. Nevertheless, most Members have adopted codes or instruments to promote responsible aquaculture practices, and in many cases the private sector had also done so. Although procedures to undertake environmental assessments, monitor aquaculture operations, and minimize the harmful effects of alien species introductions are being implemented by three-quarters of the Members, most also report that these are in need of improvement. Additionally, almost all Members have taken measures to promote responsible aquaculture practices to support rural communities, producer organizations and fish farmers.

15. Complete and enabling policy, legal and institutional frameworks for integrated coastal zone management have been put in place by less than a quarter of Members with a coastline, while about half have partially developed frameworks. The most common conflicts reported within the coastal area were fishing gear conflicts and conflicts between coastal and industrial fisheries; however, most of the concerned Members have conflict resolution mechanisms in place.

16. Food safety and quality assurance systems for fish and fisheries products are largely complete and effective in two-thirds of Members. Post-harvest losses and waste were reported to be a problem by almost all Members; however almost all of them report having taken appropriate measures to minimise these effects. Measures to improve bycatch utilization have also been widely applied. The large majority of Members reported that processors were in a position to trace the origin of the fisheries products they purchase, but less than half of the Members declared that consumers were able to do so. Although processing and trading in illegally harvested fisheries resources are commonly recognised as problems, almost all Members have taken measures to address these, most frequently through enhanced fisheries control and inspections, and, to a lesser extent, through custom and border controls, and implementing product traceability systems.

17. The status of up to half of the stocks targeted by fishing fleets of Members has been determined. Three quarters of Members collect statistics on catch and fishing effort in a timely, complete and reliable manner, even though over half of the Members report having insufficient qualified personnel to generate data to support sustainable fisheries management. Historical data, in-port/landing site sampling surveys routine data collection are the most prominent data sources used by Members for the development of fishery management plans. Almost all Members reported that data gaps undermine the management of their fishery resources and although various types were reported, most commonly these gaps related to stock status. More than half of the Members reported that they routinely monitor the state of the marine environment and three-quarters of Members reported to conduct research to assess and predict the impact of climate change on fisheries.

18. Most Members conduct fisheries within waters under their jurisdiction, more than half on the High Seas, while less than half also do so within waters under the jurisdiction of other States. Most Members authorized foreign flagged vessels to enter and use their ports while less than half authorize foreign vessels to operate in their waters. Half of the Members have launched a preliminary fishing

capacity assessment and of these, half have developed a national plan of action for the management of fishing capacity. The average level of implementation of their related governance framework was medium to high. Half of the Members have recognised overcapacity as a problem, almost all of which have taken steps to prevent further build-up of overcapacity, this was mainly through limited entry regimes, and a freeze on the number of licenses and/or vessels. Furthermore, most Members also reported that measures were implemented to reduce overcapacity and to prevent further negative impacts of overcapacity.

19. Over the years, Members have given increasing importance to assessments of shark stocks. This has led to the development of national plans of action for the conservation and management of sharks by many Members. Importance has also been attached to assessing the impact of fisheries on seabirds and several Members have developed a national plan of action to reduce incidental catches of seabirds, where relevant, and are applying mitigation measures.

20. Illegal, Unreported and Unregulated (IUU) fishing is perceived as a problem by the vast majority of Members, of which around two-thirds have developed a national plan of action to combat IUU fishing. Members reported a medium to high degree of implementation with regard to policy, legislation, institutional framework as well as operations and procedures. The most prominent relevant measures taken by Members include an improved legal framework as well as improved coastal State controls and MCS.

21. Members reported on the implementation of various binding international instruments, including, the UN Convention of the Law of the Sea⁸, the Agreement on Port State Measures⁹, and the Compliance Agreement¹⁰. Overall, Members reported medium levels of implementation of the provisions of these agreements with regard to their governance framework. Some Members that were not party to these agreements also reported to have initiated the process to becoming so. The provisions of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas were found to be widely implemented within governance frameworks by the Members conducting deep-sea fisheries on the High Seas.

22. The implementation of plans and programmes related to the Strategies on improving status and trends in capture fisheries and aquaculture is being carried out by most Members, mainly by improving data collection, analysis and dissemination.

23. In implementing the Code most Members face some constraints, which mainly relate to insufficient budgetary and human resources. Access to more financial and human resources, training and awareness raising, improvement of research, statistics and access to information were among the primary solutions identified by Members to overcome these constraints. Nonetheless, Technical Guidelines on the implementation of the Code are widely distributed among Members, especially those on the Ecosystem Approach to Fisheries, and the implementation of the IPOA-IUU.

⁸ UN Convention on the Law of the Sea of 10 December 1982.

⁹ 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

¹⁰ 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

IV. SUMMARY OF ACTIVITIES IN SUPPORT OF THE IMPLEMENTATION OF THE CODE BY REGIONAL FISHERY BODIES AND NON-GOVERNMENTAL ORGANIZATIONS

Regional Fishery Bodies (RFBs)

24. RFBs were invited to report on their current number of Contracting Parties; responses ranged from 2 to 53, averaging 15 contracting parties per responding RFB. Over a third of the RFBs have between 1 and 8 cooperating non-contracting parties, and two-thirds have observers. Fisheries management is the most common primary mandate of responding RFBs, followed by an advisory role. The convention area of close to two-thirds of RFBs cover both exclusive economic zones and areas beyond national jurisdiction, while close to a third of them covered inland waters. Over half of responding RFBs reported to adopt binding measures, while most reported to adopt non-binding measures.

25. Established management plans to ensure the sustainable utilization of living aquatic resources in marine capture fisheries mainly include measures related to the prohibition of destructive fishing methods and practices, ensuring the level of fishing is commensurate with the state of fishery resources and those to allow depleted stocks to recover. In the case of inland capture fisheries, prohibiting destructive fishing methods, addressing the interests and rights of small-scale fishers, and providing for stakeholders participation in determining management decisions were the most common elements associated with management plans.

26. More than half of the RFBs reported having taken steps to ensure that only fishing operations in accordance with their adopted fisheries management plans are conducted within their area of competence. The precautionary approach has been applied by close to three-quarters of RFBs in the management of fisheries resources. In the last two years, over half of respondents have either taken or strengthened measures to limit bycatch and discards. Historical data, followed by routine data collection, and research vessel surveys are the most commonly used sources of information in the fisheries management process by RFBs.

27. Two-thirds of RFBs reported that reliable estimates of stock status are present, half of which reported that these were present for at least 60 percent of the stocks they considered important, within the last three years. Over half of RFBs reported to have developed stock specific TRPs. Out of those, the majority reported that one or more TRPs have been approached, however, the majority also reported that one or more TRPs had been exceeded. Limiting fishing effort was the most common measure put in place when TRPs were exceeded. Catch and effort indicators were by far the most popular alternative to the use of TRPs.

28. Two-thirds of RFBs have established requirements for the implementation of VMS for the entire fishing fleet or a segment of the fishing fleet, the majority of which are complied with by their members.

29. Efforts have been made by many RFBs on several fronts and in different ways to assist in the implementation of IPOAs. Over half of RFBs have taken action to strengthen and develop innovative ways to prevent, deter and eliminate IUU fishing, along with enhancing cooperation in the exchange of information on vessels involved in IUU fishing and undertaking other activities prescribed in the IPOA-IUU. Just over a third reported to be conducting capacity building together with regional management measures to assist in the implementation of the IPOA-Capacity. Just over half reported to be assessing the conservation and management of sharks to assist in the implementation of IPOA-Sharks and under a third have carried out regional management measures to assist in implementing IPOA-Seabirds.

30. Just under a third of responding RFBs have taken measures to ensure that their members have in place procedures for good practice in aquaculture operations. Of those RFBs that had taken measures,

their members were reported to have procedures in place for good practice in aquaculture operations, although almost all were reported to be in need of further improvements, especially with respect to institutional technical capacity, legal frameworks, periodicity and widening the scope of assessment.

Non-Governmental Organizations (NGOs)

31. Establishing principles for responsible fishing and fisheries activities, principles and criteria to implement policies for the conservation of fishery resources, and fisheries management and development were identified by NGOs as the most important objectives of the Code to achieve sustainability in fisheries and aquaculture. Of the eight substantive themes developed in the Code and in the relevant FAO Technical Guidelines for Responsible Fisheries, the top priorities identified by NGOs were fisheries management, followed by fishing operations and fisheries research.

32. The main constraints identified by NGOs for the implementation of the Code related to institutional weakness, incomplete policy and/or legal frameworks, and difficult socio-economic climate. Improving research, statistics and access to (and/or usage of) information were suggested to be the most important solutions. The ways considered by the responding NGOs to be the most effective in making the Code more widely known and understood were the organization and/or hosting of national and international workshops, the promotion of standards based on the Code, and the publication of books and other information material.

33. According to NGOs, prohibiting destructive fishing methods and practices, addressing the protection of endangered species, and addressing the interests and rights of small-scale fishers were the most common measures within existing marine and inland fishery management plans of countries and/or RFBs.

34. Most of the NGOs considered that countries did not have adequate procedures in place for good practice in aquaculture operations. For those NGOs that did, they deemed that improvements were needed.

35. All the NGOs engaged in efforts to assist in the implementation of IPOAs. This was especially the case with the IPOA-IUU where all respondents reported to have assisted in its implementation. Most NGOs also reported to be involved with the implementation of IPOA-Capacity.

V. SUMMARY TRENDS: 25 YEARS OF THE IMPLEMENTATION OF THE CODE

36. Since the adoption of the Code by the FAO Conference in 1995, FAO has, in line with Article 4.2 of the Code, monitored progress in the implementation of the Code and its related instruments through a biennial questionnaire and reported the results to the Committee. Many countries and relevant international organizations, whether governmental or non-governmental, have actively cooperated with FAO in this work over the 25 years of the Code's existence. Responding countries and organizations have varied in number and composition over the years and at times information provided in the questionnaire has been insufficient to reflect a complete global status of implementation. However, based on the self-reporting in this questionnaire some trends have emerged as to how the Code's principles and standards applicable to the conservation, management and development of all fisheries¹¹ have been applied over the years. The trend analysis is limited to the responses provided by Members.

37. The highest ranked objectives of the Code have remained relatively constant over the 25 years with the objective of (1) establishing principles for responsible fisheries considering all their relevant biological, technical, economic, social, environmental and commercial aspects ranking highest in most

¹¹ The Code provides principles and standards applicable to the conservation, management and development of all fisheries (Art. 1.3).

years, followed by (2) establishing principles and criteria to implement policies for the conservation of fishery resources and fisheries management and development and (3) promoting the contribution of fisheries to food security and food quality giving priority to the nutritional needs of local communities.

38. By 2020, almost all Members reported having a fisheries policy in place, and on average Members reported that it was largely in conformity with the Code. The percentage of Members that have reported having developed fisheries management plans for their identified marine and/or inland fisheries has fluctuated but remained high over the years, with higher percentages for marine fisheries than for inland fisheries. Some positive trends in fisheries management could be observed over the last decade: an increasing number of Members reported to have started to implement the Ecosystem Approach to Fisheries (EAF) and to have developed stock-specific reference points.

39. An increasing percentage of Members have reported to be taking measures to control fishing operations undertaken by vessels flying their flag within and beyond their EEZ, albeit with fluctuations, over the last two decades. Almost all Members have reported to take measures in recent years. An increase could particularly be observed with regard to Members reporting to control fishing operations in waters beyond their national jurisdiction and to take measures to ensure that fishing activities of their vessels are reported, monitored and carried out in a responsible manner. Over the last decade, mandatory authorization to operate beyond the EEZ, enhanced MCS measures and mandatory logbooks and reporting systems were consistently reported to be the most important measures taken outside of EEZs.

40. Aquaculture has been playing an increasing role in supplying fish for human consumption and reducing pressure on capture fisheries. Almost all Members reported aquaculture occurring in their countries over the last decade. However, the development of policy, legal and institutional frameworks has not kept pace with the rapid growth of the sector with still less than half of Members reporting to have developed largely complete and enabling frameworks. However, Members have increasingly adopted codes or instruments to promote responsible aquaculture practices, and in the private sector even more progress could be observed over the last two decades.

41. Declining trends could be observed in the development of a largely complete and enabling policy, legal and institutional frameworks for integrated coastal zone management over the last decade. Since the adoption of the Code, the most important types of conflicts that arise between fisheries and other activities in coastal zones have remained largely constant with conflicts between coastal and industrial fisheries and conflicts between fishing gear types ranking highest.

42. Food safety and quality assurance systems for fish and fisheries products have increasingly been developed over the last 20 years according to the reporting by Members, albeit with fluctuations between different reporting years. This trend underlines the importance of safety and quality standards for international trade of fish and fisheries products. Since 2000, an increasing number of respondents has reported to have taken measures to address post-harvest losses and waste as well as to eliminate processing and trading in illegally harvested fisheries resources.

43. Over the last 20 years combined, no obvious trend can be noted on the percentage of stocks important to national fisheries for which Members reported to have obtained reliable estimates of stock status, albeit with oscillations between years. On average, Members responded that stocks for which an estimate had been obtained represented consistently slightly less than half of key national stocks over the whole period. However, there were marked differences in percentage range between different world regions in that period. Over the last decade, stock status data has remained the most prevalent data gap managing fisheries resources, followed by ecosystem data, IUU fishing and/or MCS data, catch data and effort data.

44. Since the adoption of the Code IPOAs have been developed within its framework to support the aim of achieving responsible and sustainable fisheries. The 1999 IPOA-Capacity, the 1999 IPOA-Sharks, the 1999 IPOA-Seabirds and the 2001 IPOA-IUU have guided an increasing number of Members to conduct

assessments and to develop National Plans of Action (NPOAs) to address issues of excess fishing capacity, the decline in abundance of many exploited shark species, seabird mortality and IUU fishing.

45. By September 2020, 168 Members including EU have ratified, accepted or acceded to UNCLOS¹², 41 Members and the EU, including its Member States, have become Parties to the Compliance Agreement¹³, and 66 Members and the EU, including its Member States, have ratified, accepted or acceded to the PSMA¹⁴. With currently 67 Parties, the PSMA shows the fastest rate of adherence to a binding international fisheries instruments related to the Code.

46. In implementing the Code, most Members have consistently faced some constraints over the last two decades, with insufficient budgetary and human resources most often ranking highest and rising in importance since 2010. These were consistently followed by the constraints related to incomplete policy and/or legal frameworks and to inadequate scientific research, statistics and information access over the last decade. Access to more financial and human resources, training and awareness raising, improvement of research, statistics and access to information were primary solutions identified by Members to overcome these constraints.

¹² UN Convention on the Law of the Sea of 10 December 1982.

¹³ 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

¹⁴ 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.