

**Report of the**

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**JOINT FAO/IMO AD HOC WORKING GROUP ON ILLEGAL,  
UNREPORTED AND UNREGULATED FISHING AND RELATED  
MATTERS**

**Rome, 9-11 October 2000**



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## PREPARATION OF THIS DOCUMENT

This is the Report of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters, as approved by the participants at the meeting held in Rome, Italy, from 9 to 11 October 2000.

### **Distribution:**

FAO Members  
Participants at the meeting  
Other interested nations and international organizations  
FAO Fisheries Department  
Fisheries Officers in FAO Regional and Subregional Offices

FAO.

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#### ABSTRACT

This is the Report of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters which was held in Rome from 9 to 11 October 2000.

The UN Commission on Sustainable Development, which met in April 1999, highlighted the issue of flag and port State responsibilities and the need for FAO and the International Maritime Organization (IMO) to cooperate on solving problems relating to IUU Fishing. Accordingly, FAO presented a paper to the IMO Maritime Safety Committee suggesting draft terms of reference for an Ad Hoc Working Group. The participation of IMO Members in the activities of the Joint FAO/IMO Ad Hoc Working Group would not entail financial implications for IMO. It further agreed that it should be represented at the Working Group by eight of its member Governments.

In this document, the series of recommendations which emanated from the discussions precede the Report. The Report summarizes the discussions on how flag States and port State control of fishing vessels can assist in counteracting IUU fishing, taking into account IMO's experience in the port State control of merchant ships. Appendixes F and G of this Report will form the basis of the Report to the IMO Sub-Committee on Flag State Implementation, which will meet on 26 February 2001. The papers which were prepared for, and presented at, the Joint FAO/IMO Ad Hoc Working Group will be published in a supplement to this Report.

## CONTENTS

	<b>Page</b>
SUMMARY OF THE RESULTS OF THE JOINT FAO/IMO AD HOC WORKING GROUP ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING	vii
	<b>Paragraphs</b>
OPENING OF THE JOINT WORKING GROUP	1-6
ELECTION OF THE CHAIRPERSON AND VICE-CHAIRPERSON	7
ADOPTION OF AGENDA	8
SUMMARY OF EVENTS LEADING TO THE ESTABLISHMENT OF THE JOINT FAO/IMO AD HOC WORKING GROUP ON IUU FISHING AND RELATED MATTERS	9
REPORT ON THE OUTCOME OF THE EXPERT CONSULTATION ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING (SYDNEY, AUSTRALIA, MAY 2000) AND THE TECHNICAL CONSULTATION ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING (ROME, ITALY, OCTOBER 2000)	10
CONSIDERATIONS RELATING TO FAO AND IMO WORK ON JOINT ACTION IN RELATION TO IUU FISHING AND RELATED MATTERS	11-12
GENERAL DISCUSSION ON JOINT ACTION REQUIRED IN ACCORDANCE WITH THE TERMS OF REFERENCE OF THE JOINT WORKING GROUP	13-23
FLAG STATE CONTROL	24-34
PORT STATE CONTROL	35-46
ADOPTION OF THE REPORT	47
	<b>Page</b>
APPENDIX A      Agenda	9
APPENDIX B      List of Delegates and Observers	10
APPENDIX C      List of Documents	14
APPENDIX D      Terms of Reference for the Joint FAO/IMO Ad Hoc Working Group on IUU Fishing and Related Matters	15
APPENDIX E      Abstracts of the Papers presented to the Joint FAO/IMO Ad Hoc Working Group	17
APPENDIX F      Checklist for Flag State Control	20
APPENDIX G      Criteria for Inspections of a Foreign Flag Fishing Vessel by a Port State	21
APPENDIX H      Extract from the Code of Conduct for Responsible Fisheries	22



SUMMARY OF THE RESULTS OF THE JOINT FAO/IMO AD HOC WORKING GROUP  
ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING  
(Prepared by the FAO Secretariat)

The Ad Hoc Working Group:

*Flag State Control*

- i) **recognized** the need to enhance implementation of flag State responsibility and to focus on fisheries issues, to the extent that this was possible, including through regional fisheries management organizations. (para. 15)
- ii) **endorsed** the need to ensure that the flag State link the registration of a fishing vessel with its authorization to fish. (para. 16)
- iii) **urged** closer collaboration between relevant agencies in national administrations to ensure that there was a clear linkage between the registration of a fishing vessel and the authorization to fish. (para. 16)
- iv) **recognized** that in the case where a vessel is fishing in the jurisdiction of another State cooperation between the flag State and the coastal State was imperative, and in particular, the need to ensure that the flag State continued to exercise effective control over that vessel. (para. 17)
- v) **agreed** that it would generally be inadvisable to deregister a vessel that failed to comply with the authorization to fish as this practice could have the effect of exporting the problem. (para. 25)
- vi) **agreed** that as a general principle all States should give full effect, through national law and regulations, to existing rights and obligations under international law. (para. 26)
- vii) **agreed** that States should be encouraged to ratify, accept or accede to, as appropriate, existing legal instruments that related to matters of effective flag State control. (para. 27)
- viii) **agreed** that consideration should be given to how the IMO number scheme might be applied to fishing vessels not currently subject to this requirement in order to enable vessels to be traced regardless of changes in registration or name over time. (para. 29)

*Port State Control*

- i) **noted** that the majority of fishing vessels were not covered by IMO conventions either because fishing vessels were specifically excluded, or because they were outside the size limitations, or because the flag States were not party to the relevant instruments. (para. 36)
- ii) **recognized** the possibility of controlling vessels engaged in the transshipment and transport of fish and resupply of fishing vessels, as they are subject to port State control with respect to maritime safety, pollution prevention and living and working conditions. (para. 40)

iii) **stressed** that States, in the exercise of their sovereignty over their ports in accordance with international law, had considerable scope to introduce domestic legislative measures to deal with foreign fishing vessels entering or leaving their ports.

(para. 41)

iv) **recognized** that the mechanism of international or regional MOUs relating to port State control of fishing vessels could be used as an important and effective tool for enhancing fisheries management, and for addressing the issue of IUU fishing.

(para. 43)

v) **agreed** that FAO in cooperation with relevant international organizations should consider the need to develop measures for port State control, having particular reference to all matters related, *inter alia*, to the management of fisheries resources, taking into account and encompassing, as appropriate, the IMO port State control procedures reflected in the document entitled "Procedures for Port State Control of Fishing Vessels".

(para. 44)

vi) **noted** that implementation of port State control would require close cooperation between maritime and fisheries administrations.

(para. 44)

## **OPENING OF THE JOINT WORKING GROUP**

1. The Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters was held in Rome, Italy from 9 to 11 October 2000. The Governments of Australia, Chile, Japan, Malta, Philippines, South Africa, United States of America and the European Community represented FAO at the Working Group. The Governments of Argentina, Canada, China, Denmark, Liberia, the Republic of Korea and Turkey represented the International Maritime Organization (IMO). The Secretariat of the International Labour Organisation (ILO) was also represented. Five other FAO member countries and two international non-governmental organizations attended as observers.
2. The Agenda is given in Appendix A and the list of delegates and observers is given in Appendix B. The documents prepared for the Working Group are listed in Appendix C and the Terms of Reference are attached as Appendix D.
3. The meeting was called to order by the Secretary of the Working Group, who welcomed delegates and observers to the Working Group.
4. Mr Zbigniew Karnicki, Director, Fishery Policy and Planning Division, Fisheries Department, in his opening statement on behalf of Mr Ichiro Nomura, Assistant Director-General of the FAO Fisheries Department, described the serious effect of illegal, unreported and unregulated (IUU) fishing on the sustainability of fisheries worldwide. IUU fishing was not only of general concern for fisheries but also had undesirable consequences from a general maritime policy perspective. He enumerated the different calls there had been on FAO to elaborate measures that could be used by member governments to combat IUU fishing and informed the Working Group how the Technical Consultation on Illegal, Unreported and Unregulated Fishing (Rome, Italy, 2-6 October 2000) had just concluded its discussions.
5. Ms Heike Hoppe in her statement on behalf of IMO, commented on the need for safety at sea for fishermen and the efforts made by IMO to establish adequate safety standards for fishing vessels and for the training of fishermen. She described the long history that FAO, IMO and ILO had in joining forces in order to achieve the desired goal of safe and responsible fishing. IMO noted the concern expressed by international organizations about the increasing incidence of IUU fishing and the harmful effects thereof.
6. Mr Brandt Wagner presented a statement on behalf of ILO, in which he related the issue of IUU fishing in the context of the ILO's Decent Work Agenda. Workers in the fishing sector were entitled to decent work no matter what size the vessel, where it operated or what flag it flew. There was a need to consider the human dimension of fishing, especially the abuse of crew and unsafe crew conditions.

## **ELECTION OF THE CHAIRPERSON AND VICE-CHAIRPERSON**

7. The Working Group elected Mr Francis Montanaro Mifsud (Malta) to the Chair of the Working Group and Mr Lawrence Barchue (Liberia) was elected Vice-Chair.

## **ADOPTION OF AGENDA**

8. The Working Group adopted the Agenda as given in Appendix A.

## **SUMMARY OF EVENTS LEADING TO THE ESTABLISHMENT OF THE JOINT FAO/IMO AD HOC WORKING GROUP ON IUU FISHING AND RELATED MATTERS**

9. The Secretariat introduced document FI:JWG/FAO/IMO/IUU/2000/Inf.3 which summarized the events leading to the establishment of this Joint Ad Hoc Working Group.

**REPORT ON THE OUTCOME OF THE EXPERT CONSULTATION ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING (SYDNEY, AUSTRALIA, MAY 2000) AND THE TECHNICAL CONSULTATION ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING (ROME, ITALY, OCTOBER 2000)**

10. The Secretariat introduced documents FI:JWG/FAO/IMO/IUU/2000/Inf.4 and Inf.5.

**CONSIDERATIONS RELATING TO FAO AND IMO WORK ON JOINT ACTION IN RELATION TO IUU FISHING AND RELATED MATTERS**

11. The Working Group based its discussion on the three main documents prepared for the meeting. The working documents were:

- (a) Considerations for the control of fishing vessels by flag States and measures to be taken by port States (FI:JWG/FAO/IMO/IUU/2000/2).
- (b) Port State control of fishing vessels (FI:JWG/FAO/IMO/IUU/2000/3).
- (c) ILO Information paper concerning considerations for the control of fishing vessels by flag States and measures taken by port States.

Abstracts of these documents are attached in Appendix E.

12. With respect to the future of the Working Group, it was noted that this would depend on action taken by the respective governing bodies of FAO and IMO after they had received and considered the report of this meeting. Given this situation, the Chair noted that it was difficult to speculate how the collaborative process between FAO and IMO might evolve.

**GENERAL DISCUSSION ON JOINT ACTION REQUIRED IN ACCORDANCE WITH THE TERMS OF REFERENCE OF THE JOINT WORKING GROUP**

13. The Working Group agreed that, within the Terms of Reference for the Group, it would be beneficial to have an informal exchange of views concerning the issues raised in the three papers referred to in paragraph 11. It was further agreed to have a general discussion that would focus first on flag State control, and subsequently, on port State measures.

14. The Working Group was informed by FAO that, although not yet in force, the FAO Compliance Agreement<sup>1</sup> and the 1995 UN Fish Stocks Agreement<sup>2</sup> are binding instruments that, when in force and fully implemented, have the capacity to address IUU fishing in a comprehensive manner. However, it was pointed out to the Group that pending their entry into force, cooperative mechanisms and other forms of joint action would be required to combat IUU fishing.

15. The Working Group recognized the need to enhance implementation of flag State responsibility and to focus on fisheries issues, to the extent that this was possible, including through regional fisheries management organizations. However, given that some flag States do not exercise effective flag State control, or are not members of these organizations, the Working Group further recognized that other supportive strategies would be necessary to combat IUU fishing.

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<sup>1</sup> The FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

<sup>2</sup> Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

16. While acknowledging the fundamental differences between merchant ships and fishing vessels, the question was raised as to whether the flag State should have an obligation in registering a fishing vessel to also ensure that it had an authorization to fish. It was further noted, that within a national administration, the registration of a fishing vessel and the authorization to fish were usually issued by different agencies of that administration. In responding to this issue, the Working Group firmly endorsed the need to ensure that the flag State link the registration of a fishing vessel with its authorization to fish. While noting that this practice already existed in national legislation or procedures in some countries, the Working Group urged closer collaboration between relevant agencies in national administrations to ensure that there was a clear linkage between the registration of a fishing vessel and the authorization to fish.

17. The Working Group recognized the situation where, following registration by a flag State, another coastal State issued an authorization for that vessel to fish in its exclusive economic zone (EEZ). In this situation, it was further recognized that cooperation between the flag State and the coastal State was imperative, and in particular, the need to ensure that the flag State continued to exercise effective control over that vessel. The Working Group acknowledged that problems could arise when a coastal State terminated an authorization to fish thereby possibly encouraging a fishing vessel to turn to IUU fishing. In providing authorizations to fish, the Working Group agreed that flag States should ensure that they had programmes for the management of fleet capacity. In this connection, the Working Group also discussed whether authorizations to construct fishing vessels should be related to the availability of fishing opportunities.

18. The ILO representative raised the issue as to whether a coastal State should establish requirements for conditions of work on foreign flag vessels authorized to fish in their EEZs.

19. IMO advised the Working Group that port State control procedures were adopted by the IMO Assembly in order to have an internationally agreed framework for the conduct of port State control, which is enforced through national or regional agreements on port State control. It was noted by the Group that many countries had already addressed port State measures in their national legislation, but that this action had been taken primarily to strengthen control over foreign flagged merchant ships rather than fishing vessels.

20. The Working Group acknowledged that there was a lack of instruments in force to facilitate effective port State control over fishing vessels. Consequently, there was a need to investigate what mechanisms might be the most appropriate for use by port States to curb IUU fishing. It was noted by the Group that a range of possible mechanisms existed, from non-binding to binding mechanisms that could be implemented nationally, regionally or globally. The Working Group took note of the regional approaches to port State control for merchant ships. It was also noted that these regional mechanisms did not currently apply to fishing vessels, though in the case of the Viña del Mar Agreement, consideration is currently being given to include fishing vessels. IMO advised the Working Group that the development of a binding instrument on port State control had been considered but dismissed in IMO primarily because port States' rights under international law were entirely clear. Some members of the Group noted that one purpose of the binding instrument would be to create a duty to exercise effective port State control (see also paragraph 41).

21. Some members expressed the opinion that the possible action to be taken by the port State for fishing vessels was not of the same nature as that for merchant ships, considering the risk and consequences of IUU fishing. It seemed to some participants that it was not enough to consider only the responsibility of the port State to control fishing vessels in its port according to national legislation in conformity with international law, but also to consider the

duty for the port State to cooperate in deterring IUU fishing in the EEZs of other coastal States and on the high seas.

22. The Group was cognisant of IMO's experience in that non-binding port State measures, that took a common approach and which provided for the specificities of different regions, had already been implemented and had met with success in relation to merchant ships, but not with fishing vessels. Given the large number of fishing vessels that enter ports and the need to achieve a common approach to port State measures, the Working Group agreed that port State measures could be elaborated for fishing vessels.

23. In considering paragraphs 1.1 and 1.2 of the Terms of Reference (relating to flag and port State control), several members of the Working Group requested that for easy reference, the provisions of the Code of Conduct for Responsible Fisheries relating to flag and port State duties (Sections 8.1, 8.2 and 8.3) should be included in the report. These sections of the Code of Conduct are attached as Appendix H.

### **FLAG STATE CONTROL**

24. The Working Group agreed there was little benefit in attempting to define the concept of "genuine link" between a vessel and the State whose flag it flies. Instead the Group agreed that a more appropriate approach was to address the key issues that might constitute effective flag State control of a fishing vessel.

25. The Group agreed that a flag State should ensure that fishing vessels were not registered and allocated a flag unless that State was prepared to issue an appropriate fishing authorization to the vessel. It was, however, noted by the Group, that the question arose as to what should occur if there was later non-compliance with the authorization to fish, and it was agreed that it would generally be inadvisable to deregister a vessel that failed to comply with the authorization to fish as this practice could have the effect of exporting the problem. In this regard the Working Group considered that the discussions within the Sub-Committee on Flag State Implementation (FSI) on the Agenda item "Implications Arising when a Ship Loses its Right to Fly a Flag" might be of relevance.

26. The Working Group agreed that as a general principle all States should give full effect, through national law and regulations, to existing rights and obligations under international law.

27. It was also agreed that States should be encouraged to ratify, accept or accede to, as appropriate, existing legal instruments that related to matters of effective flag State control, in particular those referred to in paragraph 37 and the relevant FAO, ILO and IMO instruments.

28. The Working Group developed a checklist in relation to flag State control of fishing vessels in accordance with Section 1.1 of the Terms of Reference. This list is set out in Appendix F. In the development of the checklist, the Working Group discussed the following items in the checklist:

#### Allocation of flag and registration

29. In discussing the issue of allocation of flag and registration some members raised the need to adopt a vessel identification number for fishing vessels that would enable them to be tracked regardless of changes in registration or name over time. The Working Group noted that it was already a mandatory requirement for vessels subject to the requirements of the Safety of Life at Sea Convention (SOLAS) to be allocated an IMO number. The Working

Group agreed that consideration should be given to how the IMO number scheme might be applied to fishing vessels not currently subject to this requirement.

#### Authorization to Fish

30. The Working Group noted that the details on the contents of such authorizations to fish are being further developed.

#### Record of Fishing Vessels

31. The flag State should also exercise control in relation to the minimum requirements for a record of fishing vessels. On this matter the Working Group took note of paragraph 16 of document FI:JWG/FAO/IMO/IUU/2000/2 (Appendix E), and the list of details that should be included in any such record of vessels.

#### Vessel Position Reporting

32. The Working Group noted that there were similarities between Ship Reporting Systems developed for the safety of life and property at sea and the vessel monitoring systems (VMS) used for fisheries management purposes. It was also noted that VMS should also be applied to other vessels that support IUU fishing operations, e.g. those vessels involved in transshipment activities. Where VMS, in particular satellite vessel monitoring systems, is a requirement it could be readily linked to Search and Rescue (SAR) arrangements, although this would require close cooperation between fisheries and maritime administrations.

#### Catch Data Reporting

33. The Working Group agreed that, in addition to the standard systems of monitoring fish landings, observer programmes and such like, the flag State should make catch data reporting a condition of an authorization to fish.

34. The Group agreed that the reporting requirements should be applied in a consistent manner to all fishing vessels as well as to transport and support vessels involved in transshipment at sea.

### **PORT STATE CONTROL**

35. The Working Group noted that issues addressed by documents FI:JWG/FAO/IMO/IUU/2000/2 and FI:JWG/FAO/IMO/IUU/2000/3 (Appendix E) included those relevant to safety of navigation, fishing operations, fisheries management, fishing vessel safety, crew working conditions, pollution and environmental protection; the Group noted furthermore that these issues are addressed by a number of international instruments, many of which, however, have not entered into force, or do not apply to fishing vessels.

36. From IMO's perspective, some of the issues mentioned above were the subject of international instruments that had entered into force and could be enforced through both flag and port State control for the classes of ships defined in the instruments. From FAO's perspective, the Working Group noted that the vast majority of fishing vessels were not covered by IMO conventions either because fishing vessels were specifically excluded, or because they were outside the size limitations, or because the flag States were not party to the relevant instruments.

37. The Working Group took note that international instruments relating to fishing vessel safety, the 1993 Torremolinos Protocol and the 1995 Convention on Standards of Training,

Certification and Watchkeeping for Fishing Vessel Personnel, (STCW-F 1995) and fisheries management (in particular, the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement) were not yet in force.

38. The Working Group was informed that it may be difficult to introduce port State inspection procedures for fisheries management purposes and fishing vessel safety within existing regional MOU's on port State control. The IMO representative explained that an MOU on port State control within the IMO context is merely an administrative regional arrangement between maritime administrations and is not a binding instrument. Furthermore, the legal basis for action in port States under such MOUs derived from existing conventions that make provision for port State control.

39. From IMO's perspective, since the process of port State control under the regional MOU commenced with a review of the required certificates of compliance with provisions of these instruments, and furthermore that the vast majority of fishing vessels would not be required to carry any certification relating to the instruments addressing vessel safety and environmental protection, it was considered neither appropriate nor feasible to broaden the scope of the existing MOU on port State control, to address fisheries management issues, and the safety and prevention of pollution from fishing vessels without the requisite legal instruments being in force.

40. The Working Group stressed that States, in the exercise of their sovereignty over their ports in accordance with international law, had considerable scope to introduce domestic legislative measures to deal with foreign vessels entering or leaving their ports. A more likely problem is that many States may not have introduced effective legislative or administrative measures to deal specifically with such vessels for the purpose of combating IUU fishing.

41. Some members of the Working Group furnished information about a number of legislative measures that provided an effective domestic legal basis for controlling foreign fishing vessels in certain circumstances, such as for safety, or conservation and management purposes.

42. Attention was drawn by the Working Group to the possibility of controlling vessels engaged in the transshipment and transport of fish and resupply of fishing vessels, as they are subject to port State control with respect to maritime safety, pollution prevention and living and working conditions, within the framework of the regional MOUs on port State control.

43. In addition to the role of national legislation, the Working Group nevertheless considered that the mechanism of international or regional MOUs relating to port State control of fishing vessels could be used as an important and effective tool for enhancing fisheries management, and for addressing the issue of IUU fishing. The Group agreed that there would be benefit for States in pursuing such an approach, particularly within the framework of regional fisheries management organizations, as appropriate.

44. The Working Group also agreed that FAO in cooperation with relevant international organizations should consider the need to develop measures for port State control, having particular reference to all matters related, *inter alia*, to the management of fisheries resources, taking into account and encompassing, as appropriate, the IMO port State control procedures reflected in the Appendix to document FI:JWG/FAO/IMO/IUU/2000/3 entitled "Procedures for Port State Control of Fishing Vessels" (Appendix E) thereby meeting Section 1.2.3 of the Terms of Reference for the Group. Such measures could be based, *inter alia*, on the relevant provisions of the 1993 FAO Compliance Agreement and 1995 UN Fish Stocks Agreement. It was further noted that implementation of port State control would require close cooperation between maritime and fisheries administrations.

45. While several members of the Working Group were concerned that it was unlikely that the Torremolinos and STCW-F would come into force soon, it was recognized that the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement might enter into force in the near future. The Working Group emphasized that every opportunity should be taken to call on States to ratify, accede to or accept all these instruments.

46. The Working Group developed a list of criteria for port State control of fishing vessels in accordance with Section 1.2.1 of the Terms of Reference. These are listed in Appendix G. The Working Group agreed that these criteria should be considered by FAO when taking into account the recommendation of the Working Group in paragraph 44 to consider the need to develop measures for port State control of fishing vessels. It further agreed that experience and qualifications listed in document FI:JWG/FAO/IMO/IUU/2000/2 Appendix 1 satisfied Section 1.2.2 in the Terms of Reference.

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

47. The report was adopted on 11 October 2000.



**APPENDIX A****Agenda**

1. Opening of the Joint Working Group
2. Election of the Chairperson and Vice-Chairperson
3. Adoption of Agenda and Arrangements for the Joint Working Group
4. Summary of events leading to the establishment of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters (FI:JWG/FAO/IMO/IUU/2000/Inf.3)
5. Report on the outcome of the Expert Consultation on Illegal, Unreported and Unregulated Fishing (Sydney) and the Technical Consultation on Illegal, Unreported and Unregulated Fishing (Rome) (FI:JWG/FAO/IMO/IUU/2000/Inf. 4 and Inf.5)
6. Considerations relating to FAO and IMO work on joint action in relation to IUU fishing and related matters
  - 6.1 Considerations for the Control of a Fishing Vessel by Flag States and Measures to be taken by Port States (FI:JWG/FAO/IMO/IUU/2000/2) (FAO)
  - 6.2 Port State Control of Fishing Vessels (FI:JWG/FAO/IMO/IUU/2000/3) (IMO)
7. Discussion on joint action required in accordance with terms of reference of the Joint Working Group
8. Recommendations for possible follow-up action by FAO and IMO
9. Adoption of the Report of the Joint FAO/IMO Ad Hoc Joint Working Group

**APPENDIX B****List of Delegates and Observers****ARGENTINA**

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## **APPENDIX C**

### **List of Documents**

#### **FI:JWG/FAO/IMO/IUU/2000**

- 1 Agenda
  - 2 Considerations for the control of fishing vessels by flag states and measures to be taken by port states (FAO)
  - 3 Port State control of fishing vessels (IMO)
- Inf.1 List of Documents
- Inf.2 List of Participants
- Inf.3 Summary of events leading to the establishment of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters
- Inf.4 Report of the FAO Expert Consultation on Illegal, Unreported and Unregulated (IUU) Fishing, Sydney, Australia, 15-19 May 2000
- Inf.5 Draft Report of the FAO Technical Consultation on Illegal, Unreported and Unregulated (IUU) Fishing, Rome, Italy, 2-6 October 2000
- Inf.6 ILO Information Paper concerning considerations for the control of fishing vessels by flag States and measures to be taken by port States. (available at the meeting)

## **APPENDIX D**

### **Terms of Reference for the Joint FAO/IMO Ad Hoc Working Group on IUU Fishing and Related Matters**

1. Taking into account the documentation prepared for, and the results of, the Expert Consultation on IUU Fishing in Sydney, Australia and further taking into account the respective competences, mandates and the experience of FAO and IMO, the Joint Ad Hoc Working Group will:

- 1.1 prepare a checklist of the necessary elements for effective flag State control over a fishing vessel. This checklist will provide further guidance on how the issues involved in IUU fishing could be incorporated into FSI's work programme as well as the work programme of FAO. The checklist will relate to:
  - .1.1 maritime safety;
  - .1.2 prevention of marine pollution;
  - .1.3 minimum agreed standards in relation to the safety of the crew, health and work on board a fishing vessel; and
  - .1.4 determining the position of fishing vessels at sea and for the reporting of catch data and how these may be incorporated in mechanisms for flag State control.
- 1.2 drawing on the relevant experience of IMO and FAO, review measures that may be taken by a port State in relation to the technical and administrative procedures for the inspection of a foreign flag-fishing vessel, including its fishing gear and its catch and:
  - .2.1 establish a list of criteria for such inspections and make proposals on how the inspections may be carried out in relation to the respective competence of fisheries and maritime administrations;
  - .2.2 provide a draft of the qualifications and experience required of inspectors/surveyors for the various inspections envisaged; and
  - .2.3 make recommendations on how best a harmonized system for the inspection of foreign flag fishing vessels might be applied on a regional and or subregional basis by port States.

#### **Guidance for the Ad Hoc Working Group**

2. Particular attention should be given to the requirements for vessels entitled to fly the flag of a flag State operating in waters under the jurisdiction of the same flag State, on the high seas and in waters of a State other than those of the flag State and the need to combat IUU fishing.

**Cooperation with other UN Agencies**

3. In relation to conditions of work and service in the fishing industry, the group may call upon the advice of ILO. The cooperation of other relevant agencies may also be sought on particular aspects, within their competences, that affect efforts to combat IUU fishing.

**APPENDIX E****Abstracts of the Papers Presented to the Joint FAO/IMO Ad Hoc Working Group  
(These papers will be published in full in an supplement to this Report)****CONSIDERATIONS FOR THE CONTROL OF FISHING VESSELS BY FLAG  
STATES AND MEASURES TO BE TAKEN BY PORT STATES**

**by John Fitzpatrick  
FAO Consultant**

The paper draws on the draft International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, developed at the Expert Consultation in Sydney and suggests the type of measures that could be introduced to monitor fisheries and to reduce IUU fishing. It briefly summarizes the current inspections that could be introduced under Port State Control.

The failure to effectively exercise the required jurisdiction or controls over vessels and nationals, as identified by the Expert Consultation, refers to matters related to maritime practice as well as fisheries management. The various means by which fishing vessels may contravene the applicable rules and regulations promulgated by IMO and ILO are highlighted and other means by which they can illustrate a disregard for domestic and international law while engaging in IUU fishing. The measure that are to be taken and the records that have to be kept by a flag State when it registers a fishing vessel and allocates it the right to fly its flag are reviewed. In a similar manner, the authorization to fish, although issued by a different administration require technical and administrative records. Catch data reporting as is required under the UN Agreement is discussed and the minimum details given.

The measures that can be taken by port States in relation to the technical and administrative procedures for the inspection of foreign flag fishing vessels are reviewed, including their fishing gear and catch. The list of pertinent conventions that impact on fishing vessels are listed, including several that have not yet entered into force.

The role of regional fishery bodies and fisheries agreements that currently exist and have a need for port State inspections are outlined. The need for a harmonized system of port State measures for fishing vessels which take into account the requirements of both maritime and fisheries administrations is discussed.

The appendixes give the "Recommended Qualifications and Experience for Inspectors of Fishing Vessels", the "Initial Inspections of Fishing Vessels" and finally the "Detailed Inspections of Fishing Vessels".

## **PORT STATE CONTROL OF FISHING VESSELS**

**by Heike Hope**  
**International Maritime Organization**

The provisions of the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) applies to all passenger ships and all cargo ships of 500 GT and over when engaged on international voyages, unless expressly provided otherwise in relevant chapters of the Convention. In general SOLAS does not apply to fishing vessels, however the only exception is SOLAS Chapter 5 - Safety of navigation - which applies to all ships on all voyages.

The International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relation thereto (MARPOL 73/78) applies to ships of all types. The Convention allows for inspections to verify whether a ship has discharged any harmful substances in violation of the Convention. There are four types of prevention pollution dealt with by the regulations, oil, noxious liquid substances, harmful substances and garbage.

The international Convention of the Tonnage Measurement of Ships, 1969 (TONNAGE 69) establishes uniform principles and rules with respect to the determination of the tonnage of ships engaged in international voyages. The Convention applies to all ships engaged on international Voyages, except ships of war and ships of less than 24m in length. The tonnage is important to determine which conventions apply to a specific ship. There is no provision for the detention of a ship.

The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREG 72) lays down the basic "Rule of the Road" governing traffic at Sea. The rules apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels. With regard to fishing vessels specific lights and shapes is to be displayed while fishing, otherwise a fishing vessel conforms to the lights and shapes of a vessel of her class and size. The Convention of the Facilitation of Maritime Traffic, 1965 (FAL 65) has the objective to prevent unnecessary delays in maritime traffic and to aid cooperation between Governments to secure the highest practicable degree of uniformity in formalities and other procedures. The Convention applies to all ships except warships and pleasure yachts and an Appendix contains a list of certificates and documents required to be carried on ships, which is regularly updated.

The paper then gives details of the two Conventions of IMO specifically dealing with fishing vessels, which are not yet in force. The Torremolinos Protocol of 1993 Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1997 (SFV PROT 93), establishes a safety regime for fishing vessels of 24m in length and above. The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F 1995) applies to personnel serving on board fishing vessels, generally of 24m in length and above. The paper goes on to address the Port State Control procedures for fishing vessels and describe the regional agreements (Memorandum of Understanding) that have been set up to undertake a comprehensive implementation of Port State Control. An Annex gives the proposed Procedures for the Port State Control of Fishing Vessels.

## **ILO Information Paper concerning considerations for the control of fishing vessels by flag States and Measures to be taken by Port States**

**by Brandt Wagner**  
**International Labour Organisation**

The Flag State and Port State control of fishing vessels and the issue of IUU fishing should be considered in the context of the Decent Work Agenda of the ILO. The primary goal of the ILO today is to promote opportunities for men and women to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. Decent work means productive work in which rights are protected, which generates an adequate income with adequate social protection.

The ILO has articulated four strategic objectives in order to pursue and achieve this goal. These are: the promotion of rights at work; employment; social protection and social dialogue. The first strategic objective - fundamental principles and rights at work - calls for renewed attention to ILO standards, as well as a fresh look at complementary means and instruments for achieving this goal. The rights and principles are reflected in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*.

Workers in the fishing sector are entitled to decent work no matter what size the vessel, where it operates or what flag it flies. Despite the unique nature and conditions of their profession, fishermen should enjoy the same fundamental principles and rights, as expressed in the Declaration, as other workers. However there are fishermen, who are not enjoying these rights and fishermen who are subject to sub standards living and working conditions,

Some issues related to the flag State control and port State Control were recently discussed by the ILO at its Tripartite Meeting of Safety and Health in the Fishing Industry. The purpose of the meeting was to exchange views on safety and health issues in the fishing industry to assess work done by the FAO/ILO/IMO Working Group and to identify follow-up activities and to review ILO standards adopted specifically for fishermen

The International Labour Conference adopted a total of seven standards specifically addressed to fishermen. These are

- Hours of Work (Fishing) Recommendation, 1920 (No. 7)
- Minimum Age (Fishermen) Convention, 1959 (No. 112)
- Medical Examination (Fishermen) Convention, 1959 (No. 113)
- Fishermen's Articles of Agreement Convention, 1959 (No. 114)
- Fishermen's Competency Certificates Convention, 1996 (No. 125)
- Vocational Training (Fishermen) Recommendation 1966 (No. 126)
- Accommodation of Crews (Fishermen) Convention 1966 (No. 126)

In addition a further two Conventions adopted for seafarers are considered applicable to fishermen and there are a number of other Conventions concerning seafarers which may under certain conditions be applied to fishermen. The paper concludes by suggesting recommendations that would address the "human" aspect of IUU fishing, especially the abuse of crew and unsafe crew conditions that have been noted in other fora.

## APPENDIX F

### Checklist for Flag State Control

(This checklist, where appropriate, applies to transport and support vessels that are involved in transshipment)

#### Flag State control

The primary actions controlled by a flag State concern the allocation of its flag, as well as, the registration process and are normally, but not always, the responsibility of maritime authorities. The flag State should establish laws and regulations and exercise control of fishing vessels with regard to maritime safety, marine pollution prevention and crew conditions. The flag State should also ensure that a fishing vessel entitled to fly its flag is issued with an authorization to fish. In the case of a vessel intended for fishing operations in the EEZ of the flag State or on the high seas, the competent authority in the flag State would issue the authorization to fish. If, however, the vessel seeks to fish in the waters of another State, it is the other State that would issue the authorization to fish.

#### 1. Allocation of flag and registry

Ensure compliance with national requirements regarding ownership and the recording of ownership details. The vessel and its equipment should be inspected to ensure that the minimum standards in relation to the safety, marine pollution prevention and crew conditions on board fishing vessels as addressed by IMO and ILO, as appropriate, are met.

#### 2. The authorization to fish

Provision of conditions to be met by the owners and those in charge of a fishing vessel during its operation. The actual conditions to be applied should reflect the requirements of fisheries authorities.

#### 3. Records of fishing vessels

Exercise control in relation to the record of fishing vessels in relation to the technical details of a vessel and ownership administrative controls. The flag State should also exercise control in relation to the minimum requirements for a record of fishing vessel and to the extent possible, the requirements should not be less than set out in the Compliance Agreement.

#### 4. Position Reporting

Setting minimum requirements, as appropriate, for fishing vessel position reporting by radio or by satellite communications systems in relation to safety of life and property at sea and fisheries management. Ensure that the systems adopted for fisheries management purposes complement, rather than interfere with, maritime safety systems, in particular where the use of a satellite vessel monitoring system is a requirement.

These systems should be, wherever possible, compatible with systems in place or under development in the region or sub-region as the case may be, particularly in relation to search and rescue (SAR).

#### 5. Catch Data Reporting

Ensure systems for the collection of raw data from fishing vessels of the flag State are in place covering operations in the State's own jurisdiction, operations on the high seas, and operations in waters under the jurisdiction of another State. The catch data reporting system should include the State's fishing, transport and support vessels that are involved in transshipment.

**APPENDIX G****Criteria for Inspections of a Foreign Flag Fishing Vessel by a Port State****Fisheries Inspections****Certificate of registry**

Verification that the certificate of registry, required to be carried in accordance with the Appendix in the Convention on Facilitation of Maritime Traffic (FAL) is valid. It should also be ascertained that the marking of the vessel for its identity is correct. The flag, the vessel's identification marks and the radio call sign of the vessel should be compatible with the flag State given in the certificate of registry.

**Certificates and Logs**

Confirmation that entries in the Garbage Record Book and the logbooks (deck and fishing log and machinery and processing logs) are being kept up to date.

**Authorization to fish**

Verification that the reported catch or transshipped cargo and the origins of the catch/cargo are not at variance with conditions attached to the authorization to fish.

**Manifest**

Confirmation that the items described in the manifest correspond, for example, to the types and amounts of fish in the hold(s) or other items of cargo.

**Certificate of origin of catch (where applicable)**

Verification that the reported catch or transshipped cargo and the origins of the catch/cargo are not at variance with conditions attached to the authorization to fish.

**General inspection of the fishing vessel**

Formulation of a general impression of the state of the vessel including accommodation should be made and any obvious defects or doubts should be communicated to the appropriate authority in the port State.

Information to be given to the flag State through appropriate channels of any detainable deficiency noted and the advice of the flag State to be requested on how it intends to proceed. In this regard, the port State should be prepared to give the flag State assistance.

Verification that instrumentation necessary to determine a vessel's position in relation to the limits of EEZs and or fishing zones is operational and that there is no evidence that they have been tampered with.

**Inspection of fishing gear**

Verification that the fishing gear on board, for use by the fishing vessel, is in conformity with the conditions of the authorization to fish and in conformity with the type of fishing vessel being inspected.

## APPENDIX H

### Extract from the Code of Conduct for Responsible Fisheries

#### 8.1 Duties of all States

8.1.1 States should ensure that only fishing operations allowed by them are conducted within waters under their jurisdiction and that these operations are carried out in a responsible manner.

8.1.2 States should maintain a record, updated at regular intervals, on all authorizations to fish issued by them.

8.1.3 States should maintain, in accordance with recognized international standards and practices, statistical data, updated at regular intervals, on all fishing operations allowed by them.

8.1.4 States should, in accordance with international law, within the framework of subregional or regional fisheries management organizations or arrangements, cooperate to establish systems for monitoring, control, surveillance and enforcement of applicable measures with respect to fishing operations and related activities in waters outside their national jurisdiction.

8.1.5 States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

8.1.6 States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems.

8.1.7 States should enhance through education and training programmes the education and skills of fishers and, where appropriate, their professional qualifications. Such programmes should take into account agreed international standards and guidelines.

8.1.8 States should, as appropriate, maintain records of fishers which should, whenever possible, contain information on their service and qualifications, including certificates of competency, in accordance with their national laws.

8.1.9 States should ensure that measures applicable in respect of masters and other officers charged with an offence relating to the operation of fishing vessels should include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers of a fishing vessel.

8.1.10 States, with the assistance of relevant international organizations, should endeavour to ensure through education and training that all those engaged in fishing operations be given information on the most important provisions of this Code, as well as provisions of relevant international conventions and applicable environmental and other standards that are essential to ensure responsible fishing operations.

## **8.2 Flag State duties**

8.2.1 Flag States should maintain records of fishing vessels entitled to fly their flag and authorized to be used for fishing and should indicate in such records details of the vessels, their ownership and authorization to fish.

8.2.2 Flag States should ensure that no fishing vessels entitled to fly their flag fish on the high seas or in waters under the jurisdiction of other States unless such vessels have been issued with a Certificate of Registry and have been authorized to fish by the competent authorities. Such vessels should carry on board the Certificate of Registry and their authorization to fish.

8.2.3 Fishing vessels authorized to fish on the high seas or in waters under the jurisdiction of a State other than the flag State, should be marked in accordance with uniform and internationally recognizable vessel marking systems such as the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels.

8.2.4 Fishing gear should be marked in accordance with national legislation in order that the owner of the gear can be identified. Gear marking requirements should take into account uniform and internationally recognizable gear marking systems.

8.2.5 Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.

8.2.6 States not party to the Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas should be encouraged to accept the Agreement and to adopt laws and regulations consistent with the provisions of the Agreement.

8.2.7 Flag States should take enforcement measures in respect of fishing vessels entitled to fly their flag which have been found by them to have contravened applicable conservation and management measures, including, where appropriate, making the contravention of such measures an offence under national legislation. Sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities. Such sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish.

8.2.8 Flag States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.

8.2.9 Flag States should ensure that crew members are entitled to repatriation, taking account of the principles laid down in the "Repatriation of Seafarers Convention (Revised), 1987, (No.166)".

8.2.10 In the event of an accident to a fishing vessel or persons on board a fishing vessel, the flag State of the fishing vessel concerned should provide details of the accident to the State of any foreign national on board the vessel involved in the accident. Such information should also, where practicable, be communicated to the International Maritime Organization.

### **8.3 Port State duties**

8.3.1 Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

8.3.2 Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.