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INTERNATIONAL INSTRUMENTS AND TOOLS TO COMBAT ILLEGAL, UNREPORTED, AND UNREGULATED (IUU) FISHING

INTRODUCTION

1. Illegal, unreported and unregulated (IUU) fishing¹ is a key challenge in the pursuit of a sustainable fisheries sector; it undermines national and regional efforts to conserve and manage fish stocks and, as a consequence, inhibits progress towards achieving the goals of long-term sustainability and responsibility. Moreover, IUU fishing greatly disadvantages and discriminates against those fishers that act responsibly, honestly and in accordance with the terms of their fishing authorizations. If those who engage in IUU fishing target vulnerable stocks that are subject to strict management controls or moratoria, efforts to rebuild those stocks to healthy levels will not be achieved, threatening marine biodiversity, food security for communities who rely on fisheries resources for protein and the livelihoods of those involved in the sector.

2. As awareness has grown over the past decades on the severity and importance of IUU fishing, the international community has accordingly called for and adopted increasing instruments and tools that enable States to effectively prevent, deter and eliminate IUU fishing.

INTERNATIONAL FRAMEWORK TO COMBAT IUU FISHING

3. Combatting IUU fishing requires that a State fulfills its responsibilities under the international fisheries management framework; ensuring that it adequately fulfills its responsibilities as a port, flag, coastal and market State. These responsibilities are outlined in such international instruments as:

- United Nations Convention on the Law of the Sea*
- FAO Compliance Agreement^{*2}
- United Nations Fish Stocks Agreement^{*3}

¹ Further information on IUU fishing is available here: www.fao.org/iuu-fishing/en/ and www.fao.org/iuu-fishing/ar/

² Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

- International Plan of Action to prevent, deter and eliminate IUU fishing
- FAO Port State Measures Agreement*⁴
- Voluntary Guidelines for Flag State Performance
- Voluntary Guidelines for Catch Documentation Schemes.

4. The articles and provisions contained within these instruments encompass a powerful toolbox to combat IUU fishing; the implementation of all of these serves to support the State in its various roles as a port, flag, coastal and market State and eliminate opportunities to engage in IUU fishing. A brief description of these instruments is described below.

5. The United Nations Convention on the Law of the Sea (UNCLOS) is a landmark instrument described as a “Constitution for the Oceans”, which was 14 years in the making. It provides the international legal basis for the protection and use of living and non-living resources of the world’s oceans.

6. The Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (The Compliance Agreement), aims to enhance the role of flag States and ensure that a State strengthens its control over its vessels to ensure compliance with international conservation and management measures. It notes the special responsibility of flag States to ensure that none of their vessels are fishing on the high seas unless authorized, and that they can effectively exercise their responsibilities to ensure their vessels comply with international measures. The Compliance Agreement also seeks to prevent the “re-flagging” of vessels fishing on the high seas under the flags of States that are unable or unwilling to enforce international fisheries conservation and management measures.

7. The 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 (UN Fish Stocks Agreement) entered into force on 11 December 2001. The UN Fish Stocks Agreement aims to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks within the framework of UNCLOS. The Agreement also spells out the duties of flag States including those related to registration and records of vessels, authorisations, MCS and compliance and enforcement.

8. The 1995 FAO Code of Conduct for Responsible Fisheries was adopted in Resolution 4/95 by the FAO Conference on 31 October 1995. A ground-breaking, unique and voluntary instrument, the 1995 FAO Code of Conduct is probably the most cited, high-profile and widely diffused global fisheries instrument in the world after the 1982 UN Convention. With its comprehensive, all-embracing character, it is intended that the 1995 FAO Code of Conduct be implemented holistically by governments and stakeholders involved in fisheries and aquaculture. The purpose of the CCRF is to set international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity.

9. The International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) was conceived as a comprehensive toolbox, in that it is a full range of tools that are available for use in a number of different situations to combat IUU fishing. It covers flag, port, coastal and market State responsibilities, envisages broad participation and coordination among States, as well as representatives from industry, fishing communities and non-governmental organisations (NGOs) and the use of a comprehensive and integrated approach, so as to address all

³ Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

⁴ Agreement on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing

impacts of IUU fishing. It calls upon States to develop and adopt their own NPOAs, addressing flag State responsibilities, coastal, port and market State measures and the role of RFMOs in the implementation of the NPOA.

10. The Voluntary Guidelines for Flag State Performance (VGFSP) provide guidance to strengthen and monitor compliance by flag States with their international duties and obligations regarding the flagging and control of fishing vessels. They cover the relevant responsibilities of flag States on the basis of elements contained in international law, including binding and non-binding international fisheries instruments. Fisheries management, registration and records of vessels, authorizations, MCS and cooperation between flag States and coastal States are among the central components of the Guidelines. The VGFSP outline a range of actions that countries should take to ensure that vessels registered under their flags do not conduct IUU fishing, including monitoring, control and surveillance (MCS) activities, such as vessel monitoring systems (VMS) and observers.

11. The FAO Voluntary Guidelines for Catch Documentation Schemes (VGCDS) is the first international policy document with comprehensive elaboration about CDS. The objective of the VGCDS is to provide assistance to States, regional fisheries management organisations, regional economic integration organizations and other intergovernmental organisations when developing and implementing new CDS, or harmonising or reviewing existing CDS.

12. Further, instruments such as the IMO Cape Town Agreement and the ILO Work in Fishing Convention serve to ensure issues related to safety at sea and labour conditions in the fisheries sector are adequately addressed. Appendix 1 outlines the status of the above binding instruments for RECOFI members.

THE FAO AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE IUU FISHING

13. The PSMA⁵ is the first binding international instrument with the specific objective to combat IUU fishing. While the FAO Compliance Agreement and the VG FSP focus primarily on the flag State and the related responsibilities, the PSMA focuses on the role of the port State in combatting IUU fishing through ensuring a minimum standard of measures are implemented, in addition to the exchange of information with relevant flag and coastal States, as well as RFMOs. As the number of Parties to the PSMA increase, so do the level of checkpoints at ports globally to ensure that fish caught through IUU fishing are blocked from entering the market. As of 1 February 2019, there were 58 Parties to the PSMA, including the EU as one Party⁶; this number continues to increase. Oman is the only RECOFI member that is Party to the PSMA.

14. Included in this minimum standard of measures required by the PSMA is that certain information be collected when a foreign-flagged fishing vessel⁷ requests entry into port, and that the port State sets a minimum level of inspections for these vessels. Additionally, the PSMA requires that a vessel be denied entry into or use of port if IUU fishing is detected, and further actions as in line with international and national legislation. Finally, inspection reports and information on vessels denied entry into and use of port are exchanged, so that all Parties can be made aware of these actions.

15. The Parties to the PSMA held their first meeting in Oslo, Norway (29 to 31 May 2017) to discuss, roles and responsibilities concerning the implementation of the PSMA, setting up an information exchange mechanism, the monitoring and review of the Agreement, and the establishment of the Part 6 Working Group. Additionally, a technical working group was set up to address the information exchange mechanism. In the inter-sessional period, two meetings of the Part 6 Working

⁵ Further information on the PSMA is available here: www.fao.org/port-state-measures/en/ and www.fao.org/port-state-measures/ar/

⁶ The updated status of the PSMA is available here: www.fao.org/fileadmin/user_upload/legal/docs/037s-e.pdf

⁷ Fishing vessel here refers to vessels that have engaged in fishing or fishing-related activities

Group were held, as well as one meeting of the technical working group on information exchange. The second meeting of the technical working group on information exchange will be held in Seoul, Korea in May 2019. The outcomes of these subsidiary working groups, as well as other matters, will be further discussed at the second meeting of the Parties to the PSMA, which will be held from 3-6 June, in Viña del Mar, Chile⁸.

THE GLOBAL RECORD OF FISHING VESSELS, REFRIGERATED TRANSPORT VESSELS AND SUPPLY VESSELS (GLOBAL RECORD)

16. In addition, and complementary to these international instruments, there are key initiatives that play an important role in combatting IUU fishing, such as the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels (Global Record)⁹. The Global Record is a global initiative primarily involving State authorities and RFMOs in compiling an online comprehensive and updated repository of vessels involved in fishing operations. The public version of the Global Record was launched during the 33rd session of the Committee on Fisheries in July 2018, and to date 52 countries have uploaded information related to their vessels, representing over one-third of the eligible global fishing fleet¹⁰. The Global Record can be viewed as a key source of information for the port State when the port State is gathering information to verify past vessel history, confirmation of flag State, past port denials, etc. In addition, the information uploaded into the Global Record is a compilation of what is required across international agreements, such as the FAO Compliance Agreement and the UNFSA.

ROLE OF REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS IN COMBATTING IUU FISHING

17. Regional Fisheries Management Organizations (RFMOs) have an important role to play in combatting IUU fishing, as noted in various international fora, including the first meeting of Parties to the PSMA (and meetings of its subsidiary working groups), meetings of the Global Record Working Group, and contribute to other technical matters relating to IUU fishing. RFMOs play a key role by formulating and implementing conservation and management measures (CMMs), monitoring compliance among contracting parties and within the convention area, as well as gathering and verifying information from contracting parties that can then be further disseminated or transmitted at the global level, assisting members in fulfilling their responsibilities at the global level.

18. Additionally, efforts to combat IUU fishing, such as those related to monitoring, control and surveillance (MCS) become more effective when undertaken with collaboration and coordination between States.

19. Globally, many RFMOs have taken on an important role in combatting IUU fishing. The initiatives undertaken include:

- Maintenance of IUU vessel lists
- CMMs outlining obligations as a port, flag and coastal State, as well as on catch documentation scheme,
- Development of information exchange mechanisms on port State measure,
- Monitoring compliance of contracting parties with relevant CMMs
- Requiring IMO numbers for contracting parties.

⁸ www.fao.org/port-state-measures/meetings/meetings-parties/en/

⁹ Further information on the Global Record is available here: www.fao.org/global-record/en/ and www.fao.org/global-record/ar/

¹⁰ IMO numbers are an essential component of the Global Record to maintain its integrity, and as such are a requirement for the inclusion into the Global Record

EFFORTS TO COMBAT IUU FISHING IN THE RECOFI REGION

20. In 2009, RECOFI initiated efforts on combatting IUU fishing, convening a regional workshop¹¹ dedicated to combatting IUU fishing. At the workshop, countries outlined some of the main challenges they faced at the national and regional level with regards to IUU fishing. These were divided into small-scale and industrial scale fisheries issues at the national, regional and international levels. For the small-scale fisheries IUU fishing challenges at the regional level, priority issues included use of illegal fishing gear, unlicensed vessels, illegal fishing, insufficient reporting and catch during the closed season. For industrial fisheries, the priority issues related to IUU fishing at the regional level included lack of awareness about IUU fishing, taking prohibited, undersized or endangered species, unlicensed fishing, market incentives to engage in IUU fishing, and need for strengthened cooperation and coordination in the region to combat IUU fishing.

21. Following this, IUU fishing was an issue discussed at the third¹² and fourth¹³ meetings of the WGFM. The Sultanate of Oman drafted a Terms of Reference for a feasibility study to review the development of regional databases for violations, establish a list of vessels authorized to fish by members and the establishment of a MCS information exchange scheme. However, the Sixth Session of RECOFI was unable to reach consensus on whether the study should proceed.

22. At the seventh session of RECOFI (May 2013), the Commission recognized once again the threats posed by IUU fishing to the sustainability of fisheries in the region and agreed on the drawing up a regional plan of action to combat IUU fishing through the RECOFI Working Group on Fisheries Management (WGFM). At its seventh meeting (November 2013), the WGFM recognised the urgent need for capacity development in port State measures in the region and agreed that a regional workshop should be organised within the framework of FAO's global capacity development programme on the implementation of the 2009 FAO Agreement on Port State Measures and other related instruments which aim to combat IUU fishing.

23. FAO, in collaboration with the RECOFI Secretariat and other regional and international entities, convened a regional workshop in Colombo, Sri Lanka from 1 to 5 June 2015 for the coastal countries of the North West Indian Ocean.¹⁴ The workshop was attended by representatives from six RECOFI members: Bahrain, Iran (I.R.), Iraq, Oman, Qatar and Saudi Arabia. The outcomes of this workshop were presented at the ninth meeting of the WGFM (Kuwait, 24-26 November 2015), at which the WGFM took note of the recommendations and strategies developed.

SUGGESTED ACTION BY THE WGFM

24. The WGFM may wish to consider how it can support its members to be consistent with relevant international fisheries instruments, both binding and voluntary, and in fulfilling their responsibilities as flag, coastal, port and market States. The WGFM could consider the following possibilities in moving forward to combat IUU fishing:

- Re-examine the ToRs for the feasibility study, update it to be in line with relevant regional and international developments and consider its implementation
- Promote awareness of the requirements of international instruments such as the PSMA (and consider the adoption of recommendations in line with these)
- Consider regional tools that could be developed and implemented that could support members in combatting IUU fishing.

¹¹ FAO. 2009. Report of the FAO/RECOFI Regional Workshop to Combat Illegal, Unreported and Unregulated Fishing. FAO Fisheries and Aquaculture Report No. 903. Rome, Italy. 30p. Available at: www.fao.org/docrep/012/i0917e/i0917e00.htm

¹² Doha, Qatar, 20–22 October 2009

¹³ Muscat, Sultanate of Oman, 3–5 October 2010

¹⁴ FAO. 2016. Report of the FAO Workshop on Implementing the Agreement on Port State Measures to prevent, deter and eliminate IUU fishing in the North West Indian Ocean. Colombo, Sri Lanka, 1 to 5 June 2015. FAO Fisheries and Aquaculture Report. No. 1134. Rome, Italy. www.fao.org/3/a-i5606e.pdf

Status of international fisheries (and related) instruments in RECOFI

	UNCLOS	UNFSA	PSMA	Compliance Agreement	ILO 188	Cape Town Agreement
Bahrain	x					
Iran (IR)		x				
Iraq	x					
Kuwait	x					
Oman	x	x	x	x		
Qatar	x					
Saudi Arabia	x					
UAE						