



**EXPERT CONSULTATION ON ILLEGAL, UNREPORTED AND
UNREGULATED FISHING ORGANIZED BY THE GOVERNMENT OF
AUSTRALIA IN COOPERATION WITH FAO**



**A GLOBAL REVIEW OF ILLEGAL, UNREPORTED
AND UNREGULATED (IUU) FISHING**

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PREPARATION OF THIS REPORT

This paper has been prepared as one in a series of specialist background papers for the Expert Consultation on Illegal, Unreported and Unregulated Fishing Organized by the Government of Australia in Cooperation with FAO, Sydney, Australia, 15-19 May 2000. It is expected that this series of papers and the expert consultation will contribute to the elaboration of an international plan of action (IPOA) to deal effectively with all forms of illegal, unreported and unregulated (IUU) fishing, the development of which is being undertaken in accordance with a decision of the 1999 FAO Ministerial Meeting on the Implementation of the Code of Conduct for Responsible Fisheries.

This paper includes information provided and conclusions reached by many organizations on matters related to illegal, unreported and unregulated fishing. The inclusion of this information in the paper does not necessarily imply acceptance by the Government of Australia or by FAO or any of its Members of the information provided or endorsement of the views or conclusions reported herein.

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ABSTRACT

This paper reports the views of regional fisheries bodies, and others, on the extent and impact of IUU fishing and on possible measures to combat it. The review confirms that IUU fishing is of considerable concern to these organisations. Common features of IUU fishing include the lack of effective control of fishing vessels by some flag States; the difficulty experienced by regional fisheries bodies in applying responsible fisheries management measures to the vessels of non-Parties, particularly those on the fishing vessel registers of some "open register" States; the ineffectiveness of many measures if implemented by single countries; and the problem of providing high quality human and adequate financial resources to effectively combat IUU fishing. The review reports the specific measures already adopted, or under consideration, to combat IUU fishing in areas of national jurisdiction, within the regions of responsibility of regional fisheries bodies and on the high seas. These actions include measures to enhance monitoring, control and surveillance, measures affecting IUU fishing markets and profitability, measures to enhance flag State control, and other measures to combat IUU fishing. The review also identifies the need to strengthen regional cooperation to address the problems of IUU fishing more effectively.

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EXECUTIVE SUMMARY

1. The conservation and management of many international fish stocks are being undermined by increasing levels of illegal, unreported and unregulated (IUU) fishing.
2. IUU fishing affects fisheries within the jurisdiction of coastal States (particularly developing coastal States), within the areas of responsibility of regional fisheries bodies, and on the high seas.
3. The 1999 FAO Ministerial Meeting on the Implementation of the Code of Conduct for Responsible Fisheries decided to develop an international plan of action (IPOA) to deal effectively with all forms of IUU fishing. To this end, a Technical Consultation will be held in Rome from 2-6 October 2000, following an FAO review of activities undertaken by regional fishery management organizations to deal with the problems of IUU fishing. The Technical Consultation will report to the Twenty-fourth Session of the Committee on Fisheries of FAO (COFI), which will take place in Rome from 26 February-2 March 2001.
4. This global review reports the views of regional fisheries bodies on the extent and impact of IUU fishing and on possible measures to combat it. Information provided by several other international organizations and non-governmental organizations on aspects of IUU fishing is also included.
5. The global review confirms that IUU fishing is of considerable concern to many regional fisheries bodies (and other organizations). It outlines the measures they are already implementing, or have proposed, to address this problem.
6. These measures will be considered by fisheries experts in consultations in Sydney, Australia, in May 2000, with a view to their suitability for incorporation into an initial draft of the IPOA to combat IUU fishing referred to above.
7. The global review has shown that most forms of IUU fishing exhibit several common features. Chief among them are:
 - the lack of effective control of fishing vessels by some flag States – calling for strengthened flag State control and the implementation of new and complementary forms of port State control;
 - the difficulty experienced by regional fisheries bodies in applying responsible fisheries management measures to the vessels of non-Parties, particularly those on the fishing vessel registers of some “open register” States – resulting in various proposals, ranging from making efforts to encourage such non-Parties to join the regional fisheries bodies and/or comply with their management measures, to implementing bans of various sorts against them, such as denying port access, banning imports of fish, outlawing trans-shipments, etc;
 - the ineffectiveness of many measures if implemented by single countries – suggesting the need for concerted action to develop regional and sub-regional cooperation and harmonization with respect to fisheries regulations, monitoring, control, surveillance and enforcement, etc;
 - the problem of some countries, particularly developing countries, to provide high quality human and adequate financial resources to effectively combat IUU fishing – requiring concrete forms of technical and financial assistance.

SUGGESTIONS FOR THE IPOA TEXT

8. There are many specific measures to combat IUU fishing being implemented by regional and national fisheries bodies that have been identified in this review, and other measures have been proposed for future implementation.

9. These measures are outlined in detail in Appendix 2, and summarised in paragraphs 18-41 of this paper. Authors preparing the papers in this series and experts participating in the Expert Consultation in Sydney in May 2000 are invited to draw on this material in the review, as they deem appropriate, in developing the initial draft text for the IPOA to combat IUU fishing.

1. BACKGROUND TO THE GLOBAL REVIEW OF IUU FISHING

10. An account of the origins of the terminology “illegal, unreported and unregulated (IUU) fishing” and of the FAO mandate to develop an International Plan of Action (IPOA) to Combat IUU Fishing is given elsewhere.²

11. As an initial step in fulfilling the FAO mandate and developing proposals for the IPOA, a global review of activities undertaken by regional fishery management organizations to deal with the problems of IUU fishing was carried out. The organizations which were invited by FAO to contribute to the review, and the questions they were asked are listed in [Appendix 1](#).

12. This report presents the results of the global review in the form of a summary of the issues related to IUU fishing identified by the regional fisheries bodies and the actions currently being undertaken by them, or which they have proposed, to combat IUU fishing. A full account of the information obtained by FAO through the review is contained in [Appendix 2](#), which readers are invited to study for its detailed insights into the causes and impacts of IUU fishing and possible means to address this serious problem. As well as the responses of regional fisheries bodies, relevant information and views related to IUU fishing provided by other organizations have been included in Appendix 2.

2. SUMMARY OF IUU FISHING ISSUES AND RESPONSES

2.1 Introduction

13. The responsibility for implementing an IPOA to curb IUU fishing will rest primarily on States and fishing entities acting individually, or jointly through sub-regional, regional or global agreements and arrangements. It therefore seemed useful to set out this summary in a manner that broadly parallels the way that fisheries conservation and management instruments and arrangements are implemented by these individual and joint actors. Among other things, this reflects the fact that the global survey responses did not propose any significant change to the underlying framework of national and international fisheries management arrangements.

14. The summary is accordingly set out in terms of issues of and responses to IUU fishing, first within the areas of fisheries jurisdiction of coastal States, secondly within the areas of responsibility of regional fisheries bodies, and finally for fishing on the high seas. Many of the issues raised by IUU fishing and the means to address them are common to more than one of these fishing zones, leading to some repetition. However, that reflects the reality of fisheries management. Given the focus of the survey on obtaining replies from regional fisheries bodies, this element will dominate the summary. However, IUU fishing is not confined to the areas of responsibility of regional fisheries bodies alone.

2.2 Economic Motivation for IUU Fishing

15. Responses in the global survey demonstrate the significant economic gains available through IUU fishing. Demand for fish as a healthy, wholesome food is increasing in virtually all parts of the world. In a perverse sense, the more legal fishing is constrained by catch and effort limits – as the overall state of global fish stocks rightly requires in many cases – the greater the motivation for and gains from IUU fishing. Efforts to combat IUU fishing need to recognise this basic fact and be integrated into wider fishery policy developments and initiatives, such as the expansion of legitimate and responsible forms of fishing (including aquaculture), the reduction in fishing vessel capacity and the increasing need to adopt an eco-system approach to the management of fish stocks and related species.

² Doulman, D J, “Illegal, Unreported and Unregulated Fishing: Mandate for an International Plan of Action.” (document AUS:IUU/2000/4, 2000).

2.3 Barriers to Addressing IUU Fishing

16. In addition to the specific issues identified in the global survey, some broad barriers to combating IUU fishing have emerged. These include the status in international law of third States – those that choose to stay outside regional and global fisheries management instruments – who regard themselves as not bound by such obligations, often to the detriment of the achievement of important fishery conservation and management objectives. The IPOA on IUU fishing may need to consider whether action could be taken to limit this form of international free-riding. Elaborations of Articles 64 and 116-119 of UNCLOS and, when it enters into force, Articles 8, 17 and 18 of the UN Fish Stocks Agreement, may provide the basis for some progressive developments in international law that would seek to address this major issue.

17. Other barriers to combating IUU fishing include potential conflicts between different policy objectives (and the instruments by which they are given effect) and the existence of the “corporate veil” that frequently hides the real beneficial owners of vessels engaged in IUU fishing. In addition, since the formal legal vehicle for implementing fisheries conservation and management measures is almost invariably national legislation or regulation, there can be constitutional or other legal impediments to effective implementation on, for example, the high seas.

2.4 IUU Fishing Within the Fisheries Jurisdictions of Coastal States

18. Each coastal State has the right and duty and, in principle, the legal capacity to effectively manage fisheries within its area of national jurisdiction. However, areas under coastal State jurisdiction can be very large and remote and IUU fishing may be difficult to detect and counter. Curbing IUU fishing in these circumstances therefore depends mainly on ensuring the coastal State has a real capacity to detect such activity, to apprehend the perpetrators and to deal with them under effective domestic laws and regulations. This presupposes the existence of appropriate, effective institutional arrangements and the resources necessary to put them into effect.

19. Many developing countries lack these arrangements and resources. An effective IPOA to address IUU fishing must provide explicitly for action to meet these needs.

20. One country has decided to deny a licence to fish in its coastal jurisdiction to any vessel known to have failed to observe fisheries conservation and management measures on the high seas or in an area of jurisdiction of a regional fisheries body.

2.4.1 Poaching

21. A major form of illegal fishing within coastal States’ jurisdictions is poaching by vessels with no permission to fish there. To address this, States – particularly developing States – need improved surveillance and enforcement (boats, aircraft, satellite coverage, etc). In areas such as west Africa, where poachers can easily move from one country’s EEZ to that of another country, regional and sub-regional cooperation can assist. Examples include exchanging information and data on illegal activity, developing and exchanging “black lists” of vessels and owners involved in poaching, developing regionally harmonized legislation and regulations, delegating to and sharing with neighbouring States a State’s apprehension and enforcement rights (including the right of hot pursuit), regionally coordinated use of defence force surveillance and apprehension capabilities, and the provision of technical support (and preparation and publication of technical guidelines) by international organizations such as FAO for improving fisheries monitoring, control and surveillance (MCS) including vessel monitoring systems (VMS).

22. The other major form of illegal fishing within coastal States’ jurisdictions is non-compliance with the terms of their licences by vessels licensed to fish there (whether flagged to the coastal State or another State). Here, too, the primary need is for more effective MCS, and the approaches mentioned above are relevant in this case as well.

2.4.2 Unreported Fishing

23. This includes unreported, misreported and under-reported fishing. Measures to address this include the more effective and widespread use of observers and VMS (in association with electronic log books), together with stricter rules for use of log books and in-port recording of catch. Regional and sub-regional cooperation, as outlined above, could also provide for harmonized reporting arrangements and the exchange of catch and related information.

2.4.3 Unregulated Fishing

24. In principle, there should be no unregulated fishing of significance within a coastal State's area of jurisdiction. However, lack of detailed knowledge of the area's fishery resources could lead to lack of appropriate regulation, implying that coastal States may require additional resources and, in the case of developing countries, assistance to ensure all significant fish stocks are identified, assessed and regulated. There may also be a need to ensure that any newly exploited fish stocks can be quickly brought under regulation, to avoid the damage that can occur if the new fishery is left open to unregulated "free-for-all" fishing.

2.5 IUU Fishing Within the Jurisdiction of Regional Fisheries Bodies

2.5.1 Illegal Fishing

25. It has been, and remains, a fundamental principle of international law – with a long and respectable history – that States are not bound by treaties to which they are not Party. The consequence, in a regional fisheries conservation and management context, is that non-Parties to regional fisheries agreements cannot be held to be in breach of such agreements. In that sense, they cannot be said to be fishing illegally even if they fish in a manner that is contrary to such an agreement. As noted above, however, there may be a case for developing new norms of international law in which third Party free-riding is no longer possible or at least is heavily proscribed.

This could be a longer term objective of an IPOA on IUU fishing, particularly when the UN Fish Stocks Agreement enters into force, giving effect *inter alia* to Articles 8, 17 and 18.

26. In any case, most non-Parties to regional fisheries agreements are bound by Articles 64 and 116-119 of UNCLOS. An IPOA on IUU fishing could seek to curb illegal fishing by all countries and fishing entities within the meaning of these UNCLOS articles.

27. Illegal fishing also occurs when Parties fail to comply with the conservation and management measures of the regional fisheries bodies.

2.5.2 Unregulated and Unreported Fishing

28. Irrespective of its strict legality, fishing by non-Parties will be unregulated and/or unreported, unless the non-Parties have explicitly agreed to act in conformity with the conservation and management measures of the regional fisheries bodies. It follows that seeking wide scale accession to regional fisheries agreements and/or compliance with their conservation and management measures is the most important action to curb IUU fishing for fisheries within the jurisdiction of regional fisheries bodies.

2.5.3 Action to Curb IUU Fishing

29. Specific action reported in the global review, to address IUU fishing within the jurisdiction of regional fisheries bodies includes:

- (a) *measures to enhance monitoring, control and surveillance and to penalize non-compliance*
- enhance domestic compliance and enforcement instruments (eg, by incorporating the UN Fish Stocks Agreement, FAO Compliance Agreement and FAO Code of Conduct principles and measures into domestic legislation);
 - increase enforcement and apprehension effort in the regional fisheries bodies and penalize breaches of conservation and management measures (note that many of the measures for improved regional and sub-regional cooperation outlined above in the section on poaching in zones of national jurisdiction could be applicable in this case also);

- implement greater coverage of observers;
 - permit inspections of one Party's vessels by inspectors from another Party;
 - require Parties to authorize their own vessels to fish in the area of jurisdiction of the regional fisheries body;
 - require foreign crew to be licensed by their "home" countries;
 - require VMS on all regional fisheries body-authorized vessels;
 - adopt and enforce compulsory marking of vessels and gear;
 - require mandatory inspection of all non-Party fishing vessels if they enter the port of a Party and provide reports of all such inspections to the regional fisheries body and to all Parties;
 - work on the presumption that any non-Party sighted in the regional fisheries body's area is undermining the effectiveness of the body's conservation and management measures and ban landings or trans-shipments of catch in the ports of Parties unless the vessel concerned can establish the catch was taken in a manner consistent with those conservation and management measures;
 - develop regional networks of information involving all with an interest in preventing IUU fishing, and improve the collection and reporting of non-Party catches through port monitoring and other catch and import documentation schemes; consider the incentives to timely reporting of non-quota catches when IQ (individual quota) schemes are implemented; in addition, provide for the exchange of information on catches, vessel registration, applicable regulations, etc, between Parties and with relevant international organizations, such as FAO;
 - in national legislation, review the relationship between fisheries regulation and Admiralty rules to ensure the Admiralty rules cannot be used in ways that undermine fisheries conservation and management measures and enforcement;³
 - provide for criminal penalties and confiscation of assets against nationals responsible for IUU acts in contravention of either domestic or regional fisheries body-based regulations;
- (b) *measures affecting IUU fishing markets and profitability*
- black list vessels and companies not complying with regional fisheries bodies conservation and management measures, ensure they and associated companies do not receive any public funds or other support and persuade private enterprise companies not to purchase fish or fish products from such black listed vessels or companies;
 - develop comprehensive criteria for black listing vessels, companies and nationals;
 - impose sanctions against all other fishing activities of black listed vessels and companies (and associated companies) known to have been in breach of any regional fisheries body's regulations;
 - ensure fish and fish product codes and customs classifications are clear so as to reduce the possibility of misidentification's providing an escape from detection of IUU fishing and from enforcement of appropriate penalties and sanctions;
 - reduce fishing vessel over-capacity, particularly for long-line tuna fishing vessels, and take steps to prevent any replacement by new capacity or the transfer of decommissioned vessels to other fishers, including through the implementation of vessel scrapping programs and the payment of compensation to owners whose vessels are being scrapped;
 - consider applying forms of control at the "market" stage of the fisheries industry chain (eg, on trading companies, and fish processing and storage companies);
 - implement catch documentation/certification schemes and seek non-Party participation;
 - ban imports into the territories of all Parties to the regional agreement from named systematically non-complying Parties and non-Parties (this would follow strenuous efforts to persuade the non-complying Party or non-Party to comply and be implemented in the light of

³ The *Fisheries Legislation Amendment Act (No. 1) 1999* of Australia amends the *Fisheries Management Act 1991* to make clear that third party interests will not prevail, by virtue of the *Admiralty Act 1988*, over Australian Government enforcement action.

well-documented evidence of non-compliance, including from a formal catch documentation scheme);

- request other regional fisheries bodies or countries responsible for adjacent areas to cooperate in combating IUU fishing, particularly with respect to refusal to permit landings and trans-shipments;

(c) *measures to enhance flag State control*

- seek the widespread ratification and/or compliance by flag States and fishing entities with international instruments aimed at enhancing flag State control, including the UN Fish Stocks Agreement, and the FAO Compliance Agreement and Code of Conduct;
- define the UNCLOS requirement for a genuine link between a flag State and a fishing vessel flying its flag, such that the flag State will have effective control over the vessel through the implementation of specific measures to that effect;
- investigate and implement ways of lifting the corporate veil that frequently hides details of the beneficial ownership of non-complying vessels registered by open register,⁴ non-Party flag States, and ensure that this information is openly and readily available at reasonable cost, for example through the development of an effective, up to date global fishing vessel registration data base ;
- develop lists of vessels registered by open register, non-Party flag States and of the owners of these vessels and update and publish the lists regularly;
- require flag State licensing of all vessels in the fishery;
- ensure that fishing vessels less than 24 m in length are not able to use the exemptions that apply in some cases to such vessels to enable them to engage in IUU fishing (vessels under 24 m are subject to the FAO Compliance Agreement, unless specifically made exempt);
- in order to reduce the number of fishing vessels flying the flags of States not willing or able to implement effective flag State control, develop and implement strategies and programs to purchase and decommission vessels registered by these flag States;
- ensure that other measures to combat IUU fishing, particularly those aimed at limiting the sale of IUU fish and the profitability of IUU fishing, have particular regard to the need to reduce the level of avoidance of their international obligations to fish responsibly by vessels registered by open register, non-Party flag States;
- reverse the onus of proof such that fishing by vessels registered to open register, non-Party flag States is deemed illegal unless the contrary can be established;
- adopt mandatory port State control to complement and encourage more effective flag State control;

(d) *other measures to combat IUU fishing*

- establish data recording/reporting programs for catches, by-catches and discards of related species and develop national and regional programs to reduce them; where necessary, amend international agreements with no or inadequate provisions to reduce catches, by-catches and discards of related species;
- establish specific measures to enhance cooperation between regional fisheries bodies and non-Parties;
- undertake coordinated diplomatic demarches to non-complying Parties and non-Parties;
- reverse the onus of proof with respect to all landings of specified fish and fish products (ie that all catches not clearly taken in compliance with regional fisheries bodies conservation and management measures are deemed to be from IUU fishing); and
- to the extent that they are not already provided for in international law, develop a body of rights-based mechanisms to combat IUU fishing, including the right to inspect vessels and catch and to confiscate vessels, catch and fishing gear, and the right to institute proceedings

⁴ In this paper "open register" is used in preference to "flag of convenience", since the latter term is held by some members of the International Maritime Organization to be incorrect and offensive. A complicating factor is that neither expression has a widely accepted definition.

in international courts and tribunals.

2.6 IUU Fishing on the High Seas

30. There is considerable overlap between issues of IUU fishing on the high seas and within areas of jurisdiction of regional fisheries bodies, especially as regional fisheries bodies have largely focused on IUU fishing by non-Parties on high seas parts of the regional fisheries bodies' areas of jurisdiction. To that extent, the issues and proposed responses to curb IUU fishing set out above for areas within the jurisdiction of regional fisheries bodies apply equally to the high seas.

2.6.1 *Illegal Fishing*

31. Strictly speaking, illegal fishing on the high seas, separate from that already covered above, would be fishing on the high seas contrary to Articles 116-119 of UNCLOS. As suggested in the above reference to these articles, there is a case for the IPOA on IUU fishing to establish longer term action aimed at elaborating practical measures and standards for the implementation of the general high seas fisheries conservation and management obligations. For example, there could be merit in removing any doubt as to the extent that the flag State duties of Part V of the UN Fish Stocks Agreement apply to high seas fishing generally, as well as to straddling fish stocks and highly migratory fish stocks.

32. Regional fisheries bodies have indicated concern that IUU fishing within their areas of jurisdiction can be "hidden" as catch taken on the high seas outside the regional fisheries bodies' jurisdiction. The IPOA on IUU fishing needs to give attention to measures (for recording, reporting, landing, trans-shipping and marketing catch and for the surveillance of fishing operations) that minimize the opportunity for deception of this kind.

33. The action mentioned in paragraph 18 above, in which a country has decided to apply sanctions against vessels known to have fished illegally on the high seas, by denying them licences to fish in its coastal waters and by publishing this information so that other States might take similar action, although affecting fishing within the coastal State's jurisdiction, is designed to discourage IUU fishing on the high seas.

2.6.2 *Unreported and Unregulated Fishing*

34. UNCLOS Articles 116-119 establish a general duty for States to cooperate in the conservation and management of the living resources of the high seas, and provide for the adoption of total allowable catches and other conservation measures. They also require such measures to be based on the best scientific advice available (Article 119.1(a)), and require the contribution and exchange on a regular basis of scientific information, catch and fishing effort statistics and other data relevant to the conservation of fish stocks.

35. It follows that high seas fishing that is unregulated and/or unreported is contrary to the duty to cooperate in accordance with UNCLOS Articles 116-119.

2.6.3 *Action to Curb IUU Fishing on the High Seas*

36. The most effective measure to curb IUU fishing on the high seas would be the earliest possible adoption or ratification of, or accession to relevant international fisheries instruments, including the UN Fish Stocks Agreement and the FAO Compliance Agreement and full implementation of the FAO Code of Conduct, by all States engaged in fishing.

37. The full and effective implementation of flag State control and the development of complementary port State control, as outlined above in the section on regional fisheries bodies, would also contribute to a reduction in IUU fishing on the high seas.

38. Consistent with UNCLOS and the UN Fish Stocks Agreement, the IPOA on IUU fishing could propose action to establish new regional fisheries bodies for any fisheries and/or regions not currently covered by a regional fisheries body.

39. Other measures proposed in the global survey responses include (in addition to those already outlined in the above sections that are relevant to high seas fishing):

- all States to maintain registers of vessels licensed to fish on the high seas, and to exchange such information through FAO and other appropriate fisheries organizations;
- consider the possibility of restricting the export of fishing vessels and the transfer of fishing masters to third countries;
- establish a mechanism for the effective sharing and exchange of information about IUU fishing activity on the high seas;

- empower and adequately resource the secretariats of regional fisheries bodies to undertake independent action to collect relevant fisheries information in ports and from vessels, managers, processing facilities and national agencies;
- on a regional or sub-regional basis, harmonize domestic regulations with respect to high seas fishing and develop “model” legislation (or the framework for such legislation) to assist this process; and
- develop a code of conduct for distant water fishing fleets.

2.7 Developing Country Needs

40. Effective implementation of an IPOA to combat IUU will be impossible if suitable, well trained and adequately rewarded personnel with access to appropriate hardware (boats, aircraft, satellite data, communication systems, computer systems and networks, etc) are not available nationally and (where appropriate) regionally to carry out the specific measures in the IPOA. In particular, developing countries have special needs in this regard, both for human and physical resources.

41. Regional cooperation and harmonization, as suggested in this summary, can help to ensure available resources are used as effectively as possible. However, regions and sub-regions with predominantly developing country membership will need particular assistance if the benefits of cooperation and harmonization are to be realized.

Appendix 1
Global Review of IUU Fishing

**REQUEST TO REGIONAL FISHERIES BODIES (AND OTHERS)
FOR INFORMATION ON IUU FISHING**

1. On 26 April 1999 the regional fisheries bodies listed below were informed of the FAO mandate to develop an International Plan of Action to Combat IUU Fishing and were invited to respond to a series of questions on measures taken by them to deal with this issue.

2. The questions were:

1. Estimates of catches, trade and potential impact of such activities on other marine life.
2. Identification of fish caught and the areas (EEZ or high seas) where they are most commonly or heavily caught.
3. Major landing ports or transboarding points for products of these fishing activities.
4. Practical management and enforcement measures covering fisheries production and trade.
5. Other planned/envisaged actions/options to curb IUU fishing.
6. Suggestions on how IUU fishing might be addressed at the global level.
7. Any other information you may wish to share with us on the subject.

3. The regional fisheries bodies (English language equivalent) to which this invitation was sent (or from which information was obtained by other means) are:

APFIC	Asia-Pacific Fishery Commission
OLDEPESCA	Latin American Organization for the Development of Fisheries
IATTC	Inter-American Tropical Tuna Commission
PSC	Pacific Salmon Commission
GFCM	General Fisheries Commission for the Mediterranean
WECAFC	Western Central Atlantic Fishery Commission
COREP	Regional Fisheries Committee for the Gulf of Guinea
CSRP	Sub-Regional Commission on Fisheries
NAMMCO	North Atlantic Marine Mammal Commission
CECAF	Fishery Commission for the Eastern Central Atlantic
EIFAC	European Inland Fisheries Advisory Commission
IPHC	International Pacific Halibut Commission
PICES	North Pacific Marine Science Organization
NPAFC	North Pacific Anadromous Fish Commission
NAFO	Northwest Atlantic Fisheries Organization
IOTC	Indian Ocean Tuna Commission
LVFO	Lake Victoria Fisheries Organization
ICCAT	International Commission for the Conservation of Atlantic Tunas
NASCO	North Atlantic Salmon Conservation Organization
NEAFC	North-East Atlantic Fisheries Commission
ICES	International Council for the Exploration of the Sea
IBSFC	International Baltic Sea Fishery Commission
CPPS	South Pacific Permanent Commission
CTMFM	Joint Technical Commission for the Argentina/Uruguay Maritime Front
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
APEC-FWG	Asia-Pacific Economic Cooperation-Fisheries Working Group
SEAFDEC	South-East Asian Fisheries Development Center
FFA	South Pacific Forum Fisheries Agency
SPC/OPF	Secretariat of the Pacific Community/Oceanic Fisheries Program

OECS

Organization of Eastern Caribbean States

4. After having received from regional fisheries bodies the bulk of the responses described in Appendix 2, it was felt that a further opportunity to provide information should be offered to several Latin American countries and to non-governmental organizations (NGOs) believed to have an interest in the issue of IUU fishing.
5. Accordingly, invitations identical in substance to the invitations sent to regional fisheries bodies were sent in late October 1999 to senior fisheries officials in Argentina, Brazil, Chile, Panama, Peru and Venezuela.
6. Similar invitations were sent at the same time to the Coalition for Fair Fisheries Agreements (CFFA) in Brussels, Greenpeace International in Amsterdam, IUCN Headquarters in Switzerland and WWF (UK) in England. During visits to Brussels and London in December 1999, FAO representatives (including the author) had an opportunity to follow up the invitations informally with several NGO representatives. The material presented in the global review from NGO sources reflects the result of these requests and contacts, as well as the availability of some NGO material in published reports and on the Internet.

Appendix 2
Global Review of IUU Fishing

**REVIEW OF INFORMATION PROVIDED ON ILLEGAL,
UNREPORTED AND UNREGULATED (IUU) FISHING**

**Based on Detailed Information Provided by Regional Fisheries Bodies
(and Some States and International Organizations)**

1. INTRODUCTION

1. IUU fishing threatens to undermine the conservation and management of many important international fish stocks. Accordingly, FAO decided early in 1999 to develop an International Plan of Action (IPOA) to address IUU fishing⁵. To this end, a process to develop the IPOA involving the following major steps was initiated:

- to review the activities of regional fisheries bodies to deal with the problems of IUU fishing – which is the main purpose of this global review;
- to convene a meeting of experts to identify suitable measures to combat IUU fishing – this will be the purpose of the Expert Consultation on IUU Fishing Organized by the Government of Australia in Cooperation with FAO in Sydney, Australia, from 15-19 May 2000;
- to subsequently hold an FAO Technical Consultation on IUU Fishing that would in turn report to the Twenty-fourth Session of the Committee on Fisheries of FAO (COFI) – these events will take place in Rome on 2-6 October 2000 and 26 February-2 March 2001 respectively; and
- if member countries agree, the result of this process will be the adoption by COFI of an IPOA to combat IUU fishing.

2. The primary sources of information for this global review are regional fisheries bodies, which in April 1999 were invited to submit responses to several questions. The regional fisheries bodies invited to contribute to the review and the questions they were asked are listed in [Appendix 1](#).

3. Several other sources of information were also available and have been included in the global survey. These include information provided by some States, by the Secretary-General of the United Nations and by some specialized agencies of the UN system, by other inter-governmental organizations and by some non-governmental organizations.

4. In addition, after the bulk of the responses from the regional fisheries bodies had been received, invitations were sent to several Latin American countries (reflecting the lack of information on Latin American fisheries from regional fisheries bodies) and to non-governmental organizations likely to have a particular interest in issues related to IUU fishing. A list of the recipients of these invitations is also included in [Appendix 1](#).

5. Care has been taken to reflect as fully as possible the responses received, subject in some cases to shortening the material presented. There has been no attempt to make any value judgement about the accuracy of the material provided, or to cross check any alleged IUU fishing attributed in the responses to named entities. Since the process described above for the development of the IPOA to combat IUU fishing will take place over an extensive period, any third party felt to have been misrepresented or misreported will have opportunity to reply. States or others wishing to provide additional input will be able to do so at the Technical Consultation in Rome in October 2000.

⁵ Doulman, D J, "Illegal, Unreported and Unregulated Fishing: Mandate for an International Plan of Action." (document AUS:IUU/2000/4, 2000).

6. Given the large quantity of material received, for which the author of the global review wishes to record his very great appreciation, it was felt essential to provide a summary of the main issues identified in the responses and of the measures being taken or proposed to address IUU fishing. This has been done in the main body of this paper. Readers are, however, invited to read this appendix to gain a full appreciation for the extent of the problem of IUU fishing and of the many creative proposals to combat it.

7. Unless it appeared more appropriate to report the information provided in other ways, the information provided to FAO is presented question by question in the following order:

- Information provided by States;
- Information provided by the United Nations Secretary-General and Specialized Agencies of the United Nations System;
- Information provided by regional and sub-regional fisheries bodies;
- Information provided by other intergovernmental organizations; and
- Information provided by non-governmental organizations.

8. Apparent gaps in the listing of specific questions for each group of respondents are the result of the lack of a response to those particular questions.

2. Information provided by States

9. In the timeframe available for this initial review of IUU fishing it was not practical to request information directly from FAO member States. To the extent they consider it appropriate, States may choose to provide such information at a later stage in the development of a possible IPOA to address IUU fishing.

10. Reports of the Secretary-General of the United Nations on *inter alia* unauthorized fishing in zones of national jurisdiction and on the high seas over the past several years⁶ have included information provided by States.

11. This information generally includes details of the specific legislative and regulatory measures implemented or under development to provide for the States' compliance with their current or anticipated international obligations to prevent unauthorized fishing in zones of national jurisdiction or on the high seas. No specific or general comments are included in the information provided by States via the Secretary-General as to whether the States have found it necessary to take action with respect to vessels flying their flags or with respect to any of their nationals due to non-compliance with such international obligations.

12. In the light of these considerations, this report contains specific information provided directly or indirectly by States on the subject of IUU fishing only to the extent that such information came to the author's attention coincidentally – for the reason mentioned above, there was no active attempt to request or obtain such information directly from States.

13. A Global Fisheries Enforcement Workshop was held from October 25-27 in 1994 in Washington, DC.⁷ Several papers presented at the workshop dealt with aspects of IUU fishing:

- in **Namibia**, the problem of IUU fishing is mainly illegal fishing inside Namibia's EEZ – almost entirely by Spanish vessels taking hake. These vessels are nearly all licenced in neighbouring States. Action to address this IUU fishing is through use of aircraft surveillance and patrol vessels, with good results. Namibia has also developed cooperative arrangements with neighbouring States – aimed at improved surveillance and enforcement, through improved communication, exchange of surveillance information and development of a “black-list”;
- **Senegal** has had and continues to have concern at IUU fishing, mainly by “pirate” foreign vessels inside its EEZ. A strategy to combat IUU fishing involves aerial and naval patrols and land-based surveillance centres located along the coast; establishment of a “Sub-regional Commission for Fisheries”, with Mauritania, Senegal, Cape Verde, Gambia, Guinea Bissau and Guinea; which has adopted instruments on access to resources, rights of pursuit across fishing zone borders, pooled surveillance arrangements and (under consideration) joint aerial surveillance and harmonization of sub-regional legislation;
- in the South Pacific, the **Forum Fisheries Agency** (FFA) had estimated serious no-reporting and under-reporting by Japan, the Republic of Korea and Taiwan Province of China tuna purse-seiners in the early 1990s – based on comparisons with US catch data for the same region and other indicators;
 - the response was implementation of harmonized minimum terms and conditions, development of regional cooperation in surveillance and enforcement (Niue Treaty), and banning of trans-shipments except in designated ports;
 - FFA also operates a regional register of foreign fishing vessels under which a vessel may become designated as ‘without good standing’ in the region, whereupon no FFA member country will issue it with a fishing licence;

⁶ See for example, Report of the Secretary-General, “Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments”, 8 October 1998 (A/53/473), paragraphs 76-93 and 108-129.

⁷ “Report of the Global Fisheries Enforcement Workshop”, October 25-27, 1994, Washington, US Department of State Publication 10256, September 1995.

- in future, FFA countries are expected to develop and implement legislation relating to port State enforcement and to expand to more member countries the present observer programs that only some members now operate;
- recently, FFA has begun to implement a VMS program, with the intention of requiring installation and operation of VMS as a pre-condition to a foreign fishing vessel's gaining an FFA member country licence;
- FFA member States have led the way in developing an agreement for management and conservation of highly migratory fish stocks in the central and western Pacific – the MHLG – with the objective of concluding such an agreement in the year 2000;
- other participants in the Washington meeting also noted the existence of IUU fishing inside their EEZs. Common themes were for the need for effective regional or sub-regional cooperation, better MCS (including through VMS), harmonized legislation, and coordinated use of defence force (navy and airforce) surveillance and apprehension capability. Many of the developing countries also noted their dependence on assistance from international organizations and foreign donor governments for the provision of necessary resources and capacity-building assistance to combat IUU fishing;
- the transfer of MCS capability to developing countries was also discussed. The Washington meeting report (at page 181) contains a useful summary of conclusions and recommendations on this subject. Papers included with the report refer to the TRAIN-SEA-COAST training program which DOALOS, UNDP and others have developed; and
- the World Bank is interested in more effective conservation and management of international fisheries, and is reported to be willing to coordinate efforts and collaborate with expert agencies.

14. **Small Island Developing States** (SIDs) have concerns and needs with respect to IUU fishing. These are outlined in detail in Annex A. Information available concerning unauthorized fishing in the EEZs of SIDs indicates that the incidence of IUU fishing in these areas is not declining.

15. SIDs face particular problems with respect to the monitoring of unauthorized fishing⁸ within their EEZs due to the presence of valuable fish resources, the large size of their EEZs relative to their land areas, and their limited resources to monitor fishing activities.

16. Regional groupings of SIDs are pursuing cooperative initiatives through regional monitoring, control and surveillance (MCS) programs, the establishment of regional registers of fishing vessels, the requirement for all catches to be trans-shipped in ports, and the establishment of comprehensive observer programs. FAO technical assistance for MCS programs has been provided since 1981.

17. Some South Pacific SIDs have identified unauthorized fishing in their region by Asian distant-water fishing nation fleets as a major obstacle to rational fisheries conservation and management. In response, regional MCS cooperation in the South Pacific has reached an advanced level through the Niue Treaty of July 1992.

18. **Norway**, in an attempt to further discourage IUU fishing on the high seas, has established a regulation providing that an application for a licence to fish in Norwegian waters may be denied if the vessel or the vessel's owner has taken part in an unregulated fishery in international waters on a fish stock subject to regulations in waters under Norwegian fisheries jurisdiction, or under the regulation of a regional fisheries body, such as CCAMLR, NEAFC or NAFO, etc. This provision implies, *inter alia*, that a given vessel may be denied a fishing licence in Norwegian waters even if it is operated by other than those who participated in the unregulated fishery. For example, vessels which have previously taken part in unregulated fishing in the "loophole" in the Barents Sea, have been denied a licence in Norwegian waters even after being flagged to another State. Such vessels would also be denied a licence to fish in Norwegian waters under a Norwegian flag. In applying for a licence to fish

⁸ Unauthorized fishing is only one aspect of the problem faced by SIDs with respect to the operation of some distant-water fishing nation (DWFN) fleets within SIDs' EEZs. Equally problematic and significant from a fisheries conservation and management point of view is the widespread non-reporting and under-reporting of fish catches.

within Norway's EEZ, the applicant must state, *inter alia*, the previous flag State/s, vessel name/s radio call signal/s and owner/s name/s since 1 January 1994.

19. **Japan and Taiwan Province of China**, were reported on 8 November 1999 to have agreed on compensation for de-commissioning of fishing vessels operating under open registers, to stop over-fishing of tuna.⁹

20. In an effort to eradicate over-fishing of tuna by Taiwan Province of China-owned ships operating under open registers, Japan and Taiwan Province of China have reached an in-principle agreement to pay compensation to Taiwan Province of China companies that agree to decommission such vessels. It is estimated that compensation will amount to 30 million to 40 million yen per vessel (500 to 700 tonne class), paid when the vessel is sent for scrapping in the period to the end of 2000. Although this system will mean that Japanese taxes are being used to promote the decommissioning of non-Japanese fishing vessels, Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) has maintained that the initiative is essential from the perspective of resource protection.

21. MAFF/The Fisheries Agency, the Federation of Japan Tuna Fisheries Cooperatives Association and the Taiwan Province of China fisheries industry will pool approximately two billion yen (approximately US\$20 million at February 2000 exchange rates) to fund the project (with shares of 2:1:1 respectively). The pay-out will be undertaken as a buy-back of old Japanese fishing vessels that have been exported to Taiwan Province of China and operated under open registers. Yet as the vessels will simply be scrapped, the arrangement virtually equates to straight compensation.

22. Japan and Taiwan Province of China held bilateral talks on tuna fishing in August 1999 and determined the framework for the compensation payments. Since this meeting, however, a union of Taiwan Province of China open register vessels has demanded an increase in the compensation amount. In the most recent meeting, a final agreement was reached, which included compensation payments 30 per cent higher than the original proposal.

23. Fisheries Agency estimates have set the number of flag of convenience vessels that fish for tuna at 200 to 240 internationally, and approximately 80 per cent of these vessels are owned by Taiwan Province of China operators.

24. **Japan's** Fisheries Agency announced on 10 November 1999¹⁰ the introduction of new reporting requirements under Article 10 of Japan's 'Law for Special Measures to Improve the Preservation and Management of Tuna Resources', as follows:

1. Background

- Indiscriminate fishing of tuna by vessels operating under open registers is becoming an issue of international concern, and it is necessary for Japan, as the world's largest consumer of tuna, to take action to contain the activities of flag of convenience vessels. To this end, the Fisheries Agency, under the jurisdiction of the 'Law for Special Measures to Improve the Preservation and Management of Tuna Resources', will require importers and transport companies to report on their handling of tuna. Written instruction of this requirement, dated 9 November, has been sent to the relevant parties.

2. Reporting requirements

- It will be necessary for reports to be made when frozen bluefin tuna, southern bluefin tuna, bigeye tuna, yellowfin tuna, other tuna varieties (excluding albacore or long-finned tuna), swordfish and marlin are imported or transported to Japan by boat.

3. Content of reporting

- (1) In the case of an intention to import frozen tuna varieties by boat:
 - a) the name of the vessel that made the catch; the nation in which this boat is

⁹ Source: Summary translation from *Asahi Shimbun*, 8 November 1999, p 2.

¹⁰ Source: Japanese Fisheries Agency media release, 10 November 1999.

registered; name of the vessel owner;

- b) the time and area in which the catch was made; and
- c) the buyer after importation.

(2) When imported to Japan by boat:

- a) the name of the vessel that made the catch;
- b) the date of importation; and
- c) breakdown of import by fish species, showing nature of import product and quantity.

(3) Transportation of frozen tuna varieties by boat:

- a) the name of the vessel used for transportation;
- b) the name of port(s) entered and date of entry; and
- c) the name of the vessel that made the catch; the nation in which the boat is registered; the place in and time at which the cargo was loaded.

4. Reporting period

- Reports under 3(1) (above):

all plans for importation in the period from 24 November 1999 and 31 December 2004 (herein known as the 'reporting period').

- Reports under 3(2):

all imports entering Japan in the reporting period.

- Reports under 3(3):

all vessels with tuna cargo arriving in Japan during the reporting period.

5. Submission of reports

- Reports under 3(1) to be submitted to the Fisheries Agency, Fisheries Administration Department, Fisheries Marketing Division, Second Trade Section.
- Reports under 3(2) and 3(3) to be submitted to the Fisheries Agency, Resource Management Department, Far Seas Fisheries Division, Fisheries Resource Management Section.

6. Further background to introduction of reporting requirements

- Although many international organizations have implemented measures for the purpose of tuna resource preservation and management, in recent years the international community has become concerned about the indiscriminate fishing of tuna, through skirting the regulations of those organizations, by fishing vessels registered in nations that are not members of the organizations.
- There have been increased efforts within these international organisations to gather information about the fishing activities of flag of convenience vessels. ICCAT, in an effort to take action against fishing vessels of non-member nations based on information of flag of convenience fishing activities, adopted a resolution last November requiring nations that import tuna varieties of fish to report on imports to ICCAT.¹¹ The Fisheries Committee of the FAO, in February this year, also adopted an international action plan that contained a commitment to exchange information about the activities of fishing vessels registered to nations that are not party to the resource preservation and management mechanisms of regional fisheries management organisations.
- Japan, as a nation that catches and imports among the world's largest volume of tuna varieties, has an obligation to respond to the requests of the relevant international organisations and has put in place reporting requirements under Article 10 of the 'Law for Special Measures to Improve the Preservation and Management of Tuna Resources' in order to ensure the effectiveness of international tuna resource preservation and management mechanisms by preventing indiscriminate fishing of tuna by flag of convenience vessels:
 - Reporting: When necessary to ensure the implementation of this law, the MAFF Minister has the authority to require tuna fishing operators, distributors, processors, and the organisations that oversee the operations of the aforesaid to report on their activities.
 - Penalties: Those operators that fail to provide reports in accordance with the reporting

¹¹ The ICCAT Resolutions and Recommendations are outlined at paragraphs 119-120 in this paper.

requirements, or who submit a false report, will be fined a maximum of 300,000 yen (approximately US\$3,000).

25. In **Japan** in late December 1999 and early January 2000, Japanese media reported¹² that Mitsubishi Corporation and other major Japanese trading companies had decided to cease their purchase of tuna from fishing operators (reportedly mainly from Taiwan Province of China and The Republic of Korea) whose fishing vessels are flagged to open register flag States. This is understood to follow from Japanese Government, domestic tuna industry and international pressure on Mitsubishi in particular (some of which is reported elsewhere in this review). ICCAT resolutions and recommendations, as adopted in late 1999 (and also reported in this review), including its release of a list of open register tuna long-line fishing vessels, would also appear to have influenced these decisions.

26. The **Commission of the European Communities** (EC), in a report on improving the implementation of the common fisheries policy¹³, for which the focus is not IUU fishing *per se*, nevertheless notes the need for encouraging responsible fishing worldwide and for the utmost vigilance to be paid to the dangers arising from “open registers” and even “ports of convenience.” Concerning catches landed in European Union ports from non-member countries, the report states that the main aim must be to avoid a continuation of circumstances under which a catch can be claimed to come from an unregulated area without further proof as to its origin, and it calls for detailed agreements with non-members laying down rules for inspections on landing and the exchange of information. The report also suggests that effective fisheries management requires the whole marketing chain to be covered, involving checks after landing of catch, in a manner consistent with meeting the overriding principle of traceability.

27. The **United States of America** advised FAO on 14 February 2000 that under domestic legislation it has enacted to give effect to its CCAMLR obligations (16 USC 2431) it requires harvesting and import permits for (*inter alia*) Antarctic toothfish and addresses the activities of brokers and other US entities in the market chain. Under this legislation it is unlawful for any person to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any toothfish (or other Antarctic living marine resource) known to have been harvested in violation of CCAMLR conservation measures. The obligation is without regard to the citizenship of the person or the vessel involved.

¹² Source: *Asahi Shimbun*, 18 December 1999, p18 and *Asahi Shimbun*, 7 January 2000, p 4.

¹³ Commission of the European Communities, “Improving the implementation of the common fisheries policy – an action plan.” Commission working document SEC(1998) 949 final, Brussels 5 June 1998.

3. INFORMATION PROVIDED BY THE UNITED NATIONS SECRETARY-GENERAL AND SPECIALIZED AGENCIES OF THE UNITED NATIONS SYSTEM

3.1 General Information

28. In 1992, at the **United Nations Conference on Environment and Development** (UNCED), concern at unsustainable exploitation of fisheries was expressed by the international community in Chapter 17 of **Agenda 21**, which *inter alia* called upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing vessels on the high seas.¹⁴

29. The **United Nations General Assembly** (UNGA) at its Forty-ninth Session in 1994 considered the subject of unauthorized fishing in zones of national jurisdiction and its impact on living marine resources of the world's oceans and seas in resolution 49/116.¹⁵ In subsequent years, this issue, among others, was addressed by the General Assembly in resolutions adopted in 1995 (50/25),¹⁶ 1996 (51/36),¹⁷ 1997 (52/29)¹⁸ and 1998 (53/33)¹⁹. In each of these resolutions, the UNGA, *inter alia*:

- expressed deep concern at the detrimental impact of unauthorized fishing in zones under national jurisdiction, where the overwhelming proportion of the global fish catch is harvested, on sustainable development of the world's fishery resources and on food security and economies of many States, particularly developing countries; and
- called upon States to take responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea (UNCLOS) and UNGA resolutions, to take measures to ensure that no vessels flying their national flags fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned; such authorized fishing operations should be carried out in accordance with the conditions set out in the authorization.

30. Resolution 53/33 was explicit on the matter of reflagging. It called upon States that have not done so to take measures, *including measures to deter reflagging* (emphasis added) to avoid compliance with applicable obligations, to ensure that fishing vessels entitled to fly their flags do not fish in areas under the national jurisdiction of other States unless duly authorized by the authorities of the State concerned and in accordance with the conditions set out in the authorization, and do not fish on the high seas in contravention of the applicable conservation and management rules.

31. The **Secretary-General of the United Nations**, in the introduction to his 1998 report to the General Assembly *inter alia* on unauthorized fishing,²⁰ recalled the General Assembly's acknowledgement of the importance of 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 (the UN Fish Stocks Agreement), the FAO Code of Conduct for Responsible Fisheries, Agenda 21 and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement) to the conservation and management of living marine resources. He also noted the General Assembly's having, in resolution 52/29 of 26 November 1997, once again expressed deep concern at the continuing reports *inter alia* of unauthorized fishing inconsistent with resolution 49/116 of 19 December 1994.

¹⁴ "Report of the United Nations Conference on Environment and Development", Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: "Resolutions Adopted by the Conference", resolution 1, annex II.

¹⁵ United Nations. 22 February 1995. A/RES/49/116.

¹⁶ United Nations. 4 January 1996. A/RES/50/25.

¹⁷ United Nations. 21 January 1997. A/RES/51/36.

¹⁸ United Nations. 26 January 1998. A/RES/52/29.

¹⁹ United Nations. 6 January 1999. A/RES/53/33.

²⁰ See *fn 6 supra*, paragraphs 1-7.

32. The Secretary-General's introduction also drew attention to the General Assembly's having

- called upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flag fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned, and that such authorized fishing operations should be carried out in accordance with the conditions set out in such authorization; and reiterated its call on development assistance organizations to make it a high priority to support, including through financial and/or technical assistance, efforts of developing coastal States, in particular the least developed countries and the small island developing States, to improve the monitoring and control of fishing activities and the enforcement of fishing regulations, including through financial and technical support for regional and subregional meetings for that purpose;
- urged States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, including through assistance to developing countries, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries; and
- further called upon States and other entities referred to in article 10, paragraph 1, of the Compliance Agreement that had not done so to accept the Agreement. The Assembly noted, on the one hand, the obligations of States outlined in Parts IV and V of the UN Fish Stocks Agreement relating to the conservation and management of straddling fish stocks and highly migratory fish stocks regarding non-members and non-participants and duties of flag States respectively, and, on the other hand, their obligations providing that no party to the Compliance Agreement should allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it had been authorized to do so by the appropriate authority or authorities of that party, and that a fishing vessel so authorized should fish in accordance with the conditions set out in the authorization.

33. The report of the Secretary-General to the General Assembly in September 1999 on Oceans and the Law of the Sea is explicit on IUU fishing²¹, which he states is considered to be one of the most severe problems currently affecting world fisheries. In a comprehensive report, the Secretary-General outlines the specific issues that need to be addressed and summarises the actions to date, and still required, by the international community, particularly through relevant United Nations organizations. In particular, the report:

- notes that flag State jurisdiction should be exercised not only for the purposes of safety, but also to ensure the protection and preservation of the marine environment (paragraph 124);
- notes that, although the primary responsibility for the enforcement of rules and standards rests with the flag State, port State control has been developed as a means of complementing the weakness or the unwillingness of the flag State to fulfil its obligations *vis-à-vis* vessels flying its flag (paragraph 191), and that port State control has been widely promoted by IMO, particularly through regional memoranda of understanding (paragraph 192)²²;
- acknowledges the developments with respect to the application of port State controls in fisheries management, both in the UN Fish Stocks Agreement, and by an increasing number of regional fisheries organizations, "*to stem unregulated fishing*" (paragraph 193);
- notes the emphasis by the Commission on Sustainable Development (CSD) on the importance of further development of port State control (paragraph 194), and the goal of

²¹ United Nations, 30 September 1999. A/54/429, paragraphs 249-257.

²² See Speech by IMO Secretary-General to First Joint Ministerial Conference of the Paris and Tokyo Memoranda on Port State Control, Vancouver, 24-25 March 1998, which *inter alia* states that port State control "*was intended as a means of catching the sub-standard stragglers that evaded the net cast by the flag States*"; and that "*[w]ithout port State control, there would be very few checks on international shipping and standards would undoubtedly decline. Port State control is essential to any determined attempt to raise safety and environmental standards*"

extending the coverage of regional port State control “to eventually create a global port State control network which would ban sub-standard ships posing threats to the safety of navigation and the protection and preservation of the marine environment” (paragraph 199); and

- in a detailed discussion of IUU fishing (paragraphs 249-257), summarises the international community’s growing concern at the increasing incidence of fishing operations conducted outside agreed conservation and management as well as data collection schemes, recounts the steps being taken by United Nations organizations (FAO and CSD), and reviews efforts by regional fisheries management organizations (paragraphs 268-304) *inter alia* to curb IUU fishing, with particular reference to the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Northwest Atlantic Fisheries Organization (NAFO), the North East Atlantic Fisheries Commission (NEAFC), the current efforts to establish a Southeast Atlantic Fisheries Organization (SEAFO) specifically because of concerns over IUU fishing, the General Fisheries Commission for the Mediterranean (GFCM), the Indian Ocean Tuna Commission (IOTC), the North Pacific Anadromous Fish Commission (NPAFC), and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

34. Having regard *inter alia* to the Secretary-General’s report, General Assembly resolution 54/32, which was adopted on 24 November 1999, *inter alia*

“5. *calls upon* all States and other entities referred to in article X, paragraph 1, of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas that have not done so to accept that Agreement;

6. *calls upon* all States to ensure that their vessels comply with the conservation and management measures in accordance with the [UN Fish Stocks] Agreement that have been adopted by subregional and regional fisheries management organizations and arrangements;

7. *calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas without having effective control over their activities and to take specific measures to control fishing operations by vessels flying their flag;

8. *calls upon* the International Maritime Organization, in cooperation with the Food and Agriculture Organization of the United Nations, regional fisheries management organizations and arrangements, and other relevant international organizations, and in consultation with States and entities, to define the concept of the genuine link between the fishing vessel and the State in order to assist in the implementation of the Agreement;

9. *urges* all States to participate in the efforts of the Food and Agriculture Organization of the United Nations to develop an international plan of action to address illegal, unregulated and unreported fishing, in particular the Meeting of Experts and Technical Consultation in the Food and Agriculture Organization scheduled for 2000, and in all efforts to coordinate all the work of the Food and Agriculture Organization with other international organizations, including the International Maritime Organization;

10. *encourages* all States and entities concerned to work with flag States and the Food and Agriculture Organization of the United Nations in developing and implementing measures to combat or curb illegal, unregulated and unreported fishing; and

11. *calls upon* States to provide assistance to developing States as outlined in the [UN Fish Stocks] Agreement, and notes the importance of participation by representatives of developing States in forums in which fisheries issues are discussed.”

3.2 Information Concerning Specific Questions About IUU Fishing²³

Question 1: Estimates of catches, trade and potential impact of IUU fishing activities on other marine life

35. **FAO**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 94), reported it did not maintain specific records concerning the incidence of unauthorized fishing in zones of national jurisdiction. Nonetheless, the matter had often been raised

²³ These are the same questions asked of regional fisheries bodies – see [Appendix 1](#).

and commented upon by members in their statements at fisheries meetings and consultations convened by FAO, for example, at the Regional Workshop on the adaptation of the Code of Conduct for Responsible Fisheries in West Africa (Benin, 1–5 June 1998).

Question 2: Identification of fish caught through IUU fishing activities and the areas (EEZ or high seas) where they are most commonly or heavily caught

36. FAO, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 94), reported that many participants in the Regional Workshop on the adaptation of the Code of Conduct for Responsible Fisheries in West Africa (Benin, 1–5 June 1998) had referred to unauthorized foreign-flag vessel incursions very close to the shore into their exclusive economic zones and had commented upon their impact on artisanal fisheries production.

Question 4: Practical management and enforcement measures to address IUU fisheries production and trade

37. FAO, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 95-97), reported that, as part of its work on fisheries management, it had maintained a programme on fisheries MCS, advice and technical assistance to members on an as-requested basis. In this connection, FAO and Malaysia, in cooperation with Norway, had organized in June/July 1998 a workshop with the participation of 35 countries from the region. The workshop examined technical measures involved in MCS, including commonly accepted procedures and recent experiences with vessel monitoring systems (VMS)²⁴, and provided a forum for participants to exchange information about the use of MCS in support of fisheries management.

38. In addition, FAO was involved in MCS advice in support of fisheries management in East Africa and the western Indian Ocean, through technical cooperation programme activities, studies and analyses in Seychelles, Somalia and Mauritius on appropriate approaches to improve MCS in the exclusive economic zones of those countries. Advice was also provided to an MCS project financed by Luxembourg in the Subregional Fisheries Commission area of Mauritania, Senegal, Gambia, Guinea-Bissau, Guinea and Cape Verde, as well as to specialists involved in setting up an EU-financed project for MCS in southern Africa.

39. VMS was being increasingly used by coastal States to monitor the activities of their domestic fleet and foreign vessels licensed to fish in their exclusive economic zones, and for flag States to ensure that vessels flying their flag did not conduct unauthorized fishing within areas under the national jurisdiction of other States. FAO would publish technical guidelines on VMS to assist countries wishing to use this technology to understand and implement it. The technical guidelines would also promote the standardization of equipment and message formats so that vessels might move easily from one jurisdiction to another.

40. FAO, in the same report (paragraph 130), also reported that, in support of the Compliance Agreement, it had established in 1995, with funding provided by Canada, a High Seas Vessel Registration Database System (HSREG) to facilitate monitoring of vessels licensed to fish on the high seas. The database currently contained information on a total of 621 licensed vessels from Canada and the United States. All data input to the HSREG database as well as its maintenance was currently undertaken by FAO, but plans had been under consideration to permit user input through a secure Internet site. FAO anticipated that the volume of licensed vessels in the database would increase significantly in the future.

²⁴ An international conference on satellite technology in fisheries was held in Cairns, Australia, in August 1999. In a report of the meeting, the FAO officer present, Mr A R Smith, noted the reported international uptake of VMS as follows (with the number of countries shown in brackets): executive commitment (12), VMS feasibility study (11), controlled data access (11), VMS functional requirement (10), project plans (10), data confidentiality policy (9), MCS centre implemented (8), funding and adequate resources (8), VMS regulations (8), electronic logbooks (7), legal readiness to prosecute VMS cases (6), legal precedent for VMS positional information admissibility (6), operational procedures (6). Those present at the conference noted that several systems known to have been implemented, or close to implementation (including a European Union system), were not included in the above list.

Question 6: Suggestions on how IUU fishing might be addressed at the global level

41. **FAO**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 131-132), reported that even though the Compliance Agreement had not yet entered into force, some of its elements were already being adopted by countries as their respective fisheries legislation was revised and other policy changes implemented concerning national authorizations for vessels to fish on the high seas. In this connection, FAO pointed out that the Agreement sought to ensure that there was effective flag State control over fishing vessels operating on the high seas. This would require, *inter alia*, that parties to the Agreement maintained a register of vessels fishing on the high seas and that all vessels engaged in such fishing operations were authorized to do so. The Agreement also required that certain records concerning the physical characteristics of the vessels and their ownership and operational details, be maintained by the parties as part of their flag State responsibilities. It further put parties under obligation to exchange information maintained on their respective registers through FAO and other appropriate global, regional and subregional fisheries organizations.

42. Furthermore, as part of the follow-up to the Compliance Agreement, FAO had continued to monitor the issue of reflagging. The number of vessels reflagged during the period 1994/97 had increased to nearly 3 per cent of the fleet per year (vessels over 100 gross tonnes). The vast majority of these had been in the course of normal transactions involving a change of ownership, since only about 15 per cent of the reflagging had involved a change to a "flag of convenience". Nevertheless, the number of flagged vessels under open register or flag of convenience had remained at approximately 5 per cent of the total fleet, and whereas the number of fishing vessels registered in Panama (412) and Honduras (430) had decreased, those registered in Saint Vincent and the Grenadines (139), Belize (158), Vanuatu (35) and Cyprus (32) had continued to increase.

4. INFORMATION PROVIDED BY REGIONAL AND SUB-REGIONAL FISHERIES ORGANIZATIONS²⁵

43. **NAMMCO**, in a comment of 6 July 1999 to FAO indicated that it has no information to provide regarding IUU fishing.

44. **SEAFDEC** had no information to provide on IUU fishing.

45. **GFCM** has not to date considered whether IUU fishing is of concern in the Mediterranean Area.

46. **EIFAC**, in a brief communication of 2 July 1999 to FAO said that the subject is not of relevance to EIFAC, which is dealing with inland waters only.

Question 1: *Estimates of catches, trade and potential impact of IUU fishing activities on other marine life*

47. **ICES**, in its report of 2 July 1999 to FAO, states that it is concerned about IUU fishing and in particular its influence on the reliability of its assessments of fish stocks. The immediate consequence of unreliable data due to IUU fishing is that ICES will be unable to provide reliable estimates of current stock sizes and forecasts that have been used to set TACs. Such assessments are carried out using the best catch data available to ICES. These data are not necessarily identical to the official statistics but, where appropriate, include estimates of unreported landings as well as corrections for misallocation of catches by area and species. Despite considerable effort exerted on this problem, there is no guarantee that all instances of misreporting are discovered. Often the catch data used by ICES are collated on a stock rather than an area basis, and so straightforward comparisons between these figures and the official statistics, which are provided on an area basis, are not appropriate.

48. In its assessments, ICES tries to estimate the total catch taken, including slipped catches, discards, landings which are not officially reported, and the composition of the industrial by-catches. These discards, slipped fish, unreported landings, and industrial by-catches vary considerably between different stocks and fisheries, being negligible in some cases and constituting important parts of the total removals from other stocks.

49. In the ICES area data on discards and slippings are only available for a limited number of fisheries and limited time periods and are based on sampling most often by observers on board the vessels. For many fish stock assessments discards are not accounted for explicitly but are in some cases considered implicitly in the calculations.

50. **NASCO**, in its report to FAO of 12 July 1999, notes that it had evidence of fishing for salmon in international waters by non-Contracting Parties in the period 1989-1994²⁶, but states that as a result of diplomatic actions by NASCO and its Contracting Parties there have been no sightings since 1994. However, in that context NASCO notes that despite the large number of surveillance flights over the area of international waters since 1996 (associated with the fisheries for pelagic species in the area), practically no surveillance flights have been conducted over the autumn and winter periods when fishing for salmon is known to have occurred in the past and it is possible that some fishing by non-Contracting Parties may still be occurring without the knowledge of NASCO.

51. The major problem regarding fishing for salmon in international waters by non-Contracting Parties may now be linked to the very large pelagic fisheries which have developed recently in the same area and the likelihood of salmon post-smolts being caught as by-catch.

²⁵ Unless otherwise stated, this information was provided directly to FAO, as described at [Appendix 1](#) of this report. In some cases, however, the information has been supplemented by information the organizations have provided to the Secretary-General of the United Nations, which the Secretary-General has included in his annual reports to the United Nations General Assembly.

²⁶ Much of this evidence was gained through sightings from airborne surveys by the Icelandic and Norwegian Coastguards, or from information received from the ports of Torshavn and Bodo about vessels known to fish for salmon in international waters.

52. The Council of NASCO has expressed continuing concern about the high level of the estimates of unreported catches and has emphasised the need to take stronger measures to minimise the level of such catches. It is clear from information provided by the NASCO Parties that considerable efforts are made to obtain detailed and accurate catch statistics from salmon fisheries but, despite this, catches may be unreported for a number of reasons. Illegal fishing appears to be a particular problem for a number of Parties.

53. **OLDEPESCA**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 102), reported that the national fisheries administrations of its member States did not report regularly to it on matters relating to unauthorized fishing. However, it was aware of at least one case of unauthorized fishing by a foreign vessel in the exclusive economic zone of a member. The case involved the apprehension of the tuna vessel *Connie Jean* off the coast of Peru with 100 tonnes of tuna on board. The Peruvian authorities fined the vessel US\$ 200,000 and donated the seized tuna to the local population.

54. **CECAF**, in its report of 25 August 1999 to FAO, stated that as most of the fish caught by the licensed vessels in industrial fisheries are trans-shipped at sea and moved to undeclared destinations, the only known major port of landing is Las Palmas. In the individual countries, industrial catch landings are not complete because most of the licensed vessels do not land their catch in the license issuing countries. Even where national observers are forcibly put on board the vessels, the data produced are questionable. The situation is even more compromised when the Observers are paid by the vessel owners, a common practice in this region of frequent national budget cuts and other budgetary constraints. However, ICCAT continues to provide data on tuna and tuna-like species catches in the region.

55. Monitoring, control and surveillance (MCS) continues to be a problem in the region. Trawlers poach the waters, violate reserved zones (mainly for artisanal fishing) and trans-ship at sea without supervision from local licensing authorities. These activities make it difficult to obtain reliable catch data and also to record and sanction the culprits.

56. **APFIC**, in its communication of 29 June 1999 to FAO, said that it is not a regional fishery management organization and has no specific report to make. Therefore, it is not possible to estimate total catches from IUU fishing in the APFIC area at present. Most vessels with illegally taken catches return to home ports without any identification on the fishing grounds where the fish was taken.

57. **CCSBT**, in its report of 30 June 1999 to FAO, states that with regard to estimates of unregulated catch, the annual catches of southern bluefin tuna by non-members, principally The Republic of Korea, Taiwan Province of China and Indonesia, are estimated to be at least 4,000 tonnes, which are taken mainly in the central and western Indian Ocean. Actions taken by the Commission to estimate these catches include monitoring Japan's fish import statistics and collection and review of information on tuna landings at selected Indian Ocean ports, by representatives of Commission members.

58. **IOTC**, in its report of 28 July 1999 to FAO, stated that in 1996, IUU fishing was estimated to amount to nearly 100,000 tonnes in the Indian Ocean, i.e., 10 % of all reported landings of tuna and tuna-like species. According to the report, this figure is certainly greatly underestimated.

59. Flag of convenience purse-seiners generally belong to companies based in the major distant water fishing nations which report catches without specifying the flags of the vessels concerned. This is satisfactory as the *modus operandi* of these vessels is identical to that of the reporting country's fleets. Flag of convenience purse seine production is therefore reasonably well covered.

60. In the case of long-liners, however, open registry countries do not generally report catches and there are a large number of small (<100 GT/24 m) vessels based more-or-less permanently in Indian Ocean ports, mainly owned and operated by Taiwan Province of China, which report neither to their flag authorities, nor to those of the countries where they are based.

61. It is generally not possible to use trade data to estimate the catches of these long-liners as, once landed, the fish is merged with local production. Some of the fish is consumed locally and some is exported, but export statistics usually do not distinguish between local and foreign flag products.

62. In some (rare) cases, landings of flag of convenience vessels have been covered by trans-shipment data. However, most current estimates of IUU long-line catches come from incomplete listings of flag of convenience vessels in Indian Ocean ports. Probable catches (and discards) can be estimated from the vessel characteristics and fishing areas. There is thus no way of assessing the catches of unlisted vessels.

63. There is a growing fear that the long-line fishery is heavily- or over-exploited, and this has prompted Japan to reduce its distant water fleet unilaterally. The benefits from this move could accrue to IUU fishing fleets if measures are not taken to constrain their activities. Similarly, because of the migratory nature of the target species, the aspirations of coastal countries to enter this fishery could be compromised. The negative effects of IUU fishing at this stage are therefore probably more economic and social than ecological in nature.

64. **IATTC**, in its short communication of 2 July 1999 and report of 22 September 1999 to FAO, indicates that there are no significant problems with IUU fishing with respect to purse-seine vessels, though there are occasional issues with vessels changing flag so that it is not clear which State has jurisdiction for them. Even with the coverage of the major fishing ports by IATTC staff, and the compilation of various reports of trans-shipments, imports and exports of fish, there remains the potential for catches by vessels of all nations participating in these fisheries to go unreported, or at least unreported as catch from the eastern Pacific Ocean. Such would be the case, for example, for fish trans-shipped on the high seas from vessels which do not carry IATTC scientific observers, or for fish taken by vessels which enter and exit the area without calling on a port in the Americas. IATTC does not have an estimate of such catches, but suspects that they are not large in comparison to reported and monitored catches.

65. **ICCAT**, in comments of 23 July 1999 to FAO, states that the operations of fishing vessels under open registers have been a major concern of ICCAT for more than ten years. The activities of these vessels has become a serious problem since the Commission began to implement regulatory measures regarding tuna and tuna-like species in the Atlantic Ocean, as most vessels operating under open registers do not respect ICCAT regulations, and thus undermine the effectiveness of the conservation effort.

66. Estimates of unreported catches (mostly IUU) are about 10 percent of the major Atlantic tuna species (bluefin, swordfish and bigeye) catch. Misreporting by some Contracting Parties is also suspected. The effect of these catches on the populations can be very significant, and this unregulated fishing also effects the morale of fishermen complying with the regulations.

67. **SPC/OFP**, in its report of 16 August 1999 to FAO, states that OFP does not monitor instances of illegal or unregulated fishing. However, regarding fishing by vessels on "open registers", according to the catch and effort logsheet database held by OFP, which covers fishing by foreign vessels operating under access agreements with SPC member countries and territories in the western and central Pacific Ocean (WCPO), during 1997 there were at least 5 ex-Korean long-liners flagged in Panama, 2 ex-Korean long-liners flagged in Honduras, and 1 ex-Taiwan Province of China and 3 ex-United States long-liners flagged in Belize. During 1997, there were also 2 ex-Korean purse-seiners flagged in Panama. The catches of these vessels are not provided for in the OFP catch and effort database, but are believed to be low. It is not known whether the flag states compile catch data for these vessels.

68. In addition, according to data provided by the Vanuatu Fisheries Division, there were five purse-seiners flagged in Vanuatu in 1998 that fished in the WCPO. During 1999, this number increased to 12. Two of these vessels are ex-Korean and the remainder are ex-Taiwan Province of China. The Vanuatu government has not yet compiled catch data covering these vessels though it hopes to be able to do so.

69. There may be other open register vessels in the WCPO that are not covered by the OFP database. As to unreported fishing, the major gaps in the OFP logsheet data in recent years include data for distant water long-liners of the Republic of Korea and Taiwan Province of China, and Japanese long-line, pole-and-line and purse seine vessels fishing in international waters in the WCPO.

70. **CCAMLR**, in its reports and documents to FAO of 14 May and 12 November 1999, stated that its Scientific Committee had expressed grave concern over the virtual commercial extinction of some stocks of toothfish (*Dissostichus* spp.) due to IUU fishing. On that basis, the Commission itself has also reiterated its extreme concern about the high level of IUU fishing for toothfish in the Convention Area. In 1997/98 Members had reported 45 sightings of fishing vessels of non-Contracting Parties. The flag States identified were Seychelles, Faroe Islands and Belize, while others were not identified.

71. In the past three years the amounts of toothfish taken by IUU fishing have been of the order of 90,000 tonnes, more than twice the level of catches taken in CCAMLR-regulated fisheries. This rate of extraction is unsustainable and has led to a significant depletion of toothfish stocks in some areas. In addition, the mortality of seabirds, principally albatross and petrel species, taken as a by-catch of the long-line fisheries is also unsustainable and has resulted in declines in the populations of these species. This scale of IUU fishing for toothfish in the Southern Oceans is the most significant problem faced by CCAMLR.

72. Some members noted that IUU fishing in the CCAMLR Convention Area was being carried out, in the main, by companies and individuals originating from CCAMLR Parties. Landings of unregulated catches of toothfish in 1997 and 1998 were known to have taken place in the main in Namibia and Mauritius. On invitation from CCAMLR, government representatives from Mauritius and Namibia have participated as observers from the Seventeenth Meeting of the Commission in 1998. The Commission has encouraged these States to accede to the Convention and also to cease providing port or landing facilities for vessels which carried out unregulated fishing in the Convention Area.

Question 2: *Identification of fish caught through IUU fishing activities and the areas (EEZ or high seas) where they are most commonly or heavily caught*

73. **WECAFC**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 98), indicated that there had been reports of unauthorized fishing in zones of national jurisdiction in the 1997/98 period, but the majority of those reports had not been verified. The reports had dealt with unauthorized small-scale fishing between neighbouring countries in the region. Unauthorized fishing by industrial vessels (shrimping and long-lining for large pelagics by vessels from outside the region), which was probably more important to the region, had been reported in the press, but again not verified. Additionally, a number of countries in the WECAFC region were in the process of improving their MCS capacity, which was not limited to fishing only.

74. **NAFO**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 135), reported it had undertaken diplomatic initiatives with the non-Contracting Party flag States whose vessels fished in the NAFO regulatory area in 1996/97, namely Belize, Honduras, Panama and Sierra Leone (see A/51/645, paragraph. 164).

75. NAFO, in its reports to FAO of 6 May and 2 December 1999, stated that the problem of IUU fishing in the northwest Atlantic is associated with the activities by non-NAFO Member Country vessels in the NAFO Regulatory Area, which is that part of the Convention Area which lies beyond 200-mile zone(s) (Flemish Cap, Grand Banks and adjacent waters).

76. Activities of non-Contracting Party (NCP) vessels declined through 1995-1998 (largest number of NCP vessels was in 1989 - 47 vessels, and catch, in 1991 - 47,000 tonnes). During the 1990's the most NCP vessels were from Belize, Honduras and Panama. In 1998 there were four vessels: the "Austral", "High Sierra", "Porto Santo" and the "Santa Princesa" all registered in Sierra Leone.

77. None of the NCP vessels indicated above were boarded during 1998. However, total catches from these vessels would be estimated to be less than 1000 tonnes (mainly of cod - *Gadus morhua* and Redfish - *Sebastes mentella*).

78. All information on NCP activity for 1998 regarding vessel registry and crew nationality were based on the latest information available and may be different at present due to the nature of such a fishery.

79. In 1999, January-April, there were three NCP vessels "Austral" and "High Sierra" from Sierra Leone and "Albri II" of Belize fishing in the Regulatory Area. NAFO has noted that some NCP vessels appear to have relocated from the NAFO Regulatory Area to that NEAFC Regulatory Area and that these vessels often re-register between such countries as Belize, Honduras and Sao Tome e Principe. The vessels "Austral", "High Sierra" and "Albri II" were involved in this activity. NAFO has recommended close cooperation between international fisheries organizations to deal with this issue.

80. **NPAFC**, in its report of 29 June 1999 to FAO, stated that there is no established means to identify fish caught illegally on the high seas in the North Pacific. However, according to the experience of enforcement activities conducted by the Parties from 1993-1999, illegal salmon fishing vessels were found on the high seas in the western North Pacific Ocean.

81. **IOTC**, in its report of 28 July 1999 to FAO, indicated that the species targeted by small long-liners are mostly bigeye and yellowfin tunas, with significant catches of billfish, notably of swordfish which is becoming an increasingly attractive "secondary" target species. IOTC currently recognises the priority of CCSBT to manage southern bluefin tuna.

82. Most of the countries where the IUU fleets are based have little enforcement capacity and it is therefore probable that fishing takes place both within EEZs and in high seas areas. In its October 1999 newsletter (*Indian Ocean Tuna News*, Vol 2, No 2), IOTC commented that a potentially serious problem of under-reporting or non-reporting of catch arises from the major increase that has occurred in the number of tuna fishing vessels flying the flags of countries which take no responsibility for the activities of their fishing fleets.

83. **CCAMLR**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 139), indicated that illegal, unreported and unregulated fishing in the Convention area had been considered at its 1997 annual meeting, particularly in relation to long-line fishing of Patagonian toothfish. There was general agreement among members that: (a) the evidence of large-scale, illegal, unreported and unregulated fishing referred to by members during 1996/97 and at the beginning of the 1997/98 season seriously undermined the work of CCAMLR in achieving the Convention's objective; (b) the extent of existing illegal, unreported and unregulated fishing posed a serious threat to the conservation of stocks in the immediate future as well as the survival of several species of seabirds in the Southern Ocean as incidental by-catch in long-line fishing operations; (c) there were reports of vessels of non-Contracting as well as Contracting Parties fishing in the Convention area, contrary to CCAMLR conservation measures in force; (d) all information received pointed, *inter alia*, to a blatant disregard by non-Contracting Parties of the CCAMLR conservation regime; and (e) the situation called for collective efforts within CCAMLR, including measures by flag States and coastal States and steps vis-à-vis non-Contracting Parties to enhance enforcement and compliance with conservation measures in the Convention area.

84. **IATTC**, in its short communication of 2 July 1999 and report of 22 September 1999 to FAO, states that some of its principal concerns about unreported and untimely reporting of catches is for those made by Taiwan Province of China and the Republic of Korea, which have vessels which operate in the region, but from whom the Commission gets little and infrequent cooperation with obtaining information on catches in the area. The Republic of Korea is not a party to the Convention establishing the IATTC and Taiwan Province of China is not currently eligible to join; however it has expressed its intention to cooperate fully.

85. **ICCAT**, in comments of 23 July 1999 to FAO, states that for bluefin tuna, the ICCAT Statistical

Document Program has provided information for minimum estimates of unreported catches, where they are made, which flag vessels are responsible, etc. The major fishing area for bluefin tuna by this type of vessel is in the international waters of the Mediterranean Sea, during the spawning season (closed for long-line fishery). Swordfish and bigeye tuna are also illegally caught and not reported, mostly in high-seas waters.

86. **SPC/OFP**, in its report of 16 August 1999 to FAO, indicates that the open register long-liners operating in the WCPO target albacore, bigeye and yellowfin tuna, while the purse seiners target bigeye, skipjack and yellowfin tuna. The amount of the catches by the open register vessels is unknown, but is believed to be very low compared to the total catch of target species in the WCPO, which amounted to 1.8 million t in 1998. The open register vessels covered by the OFP database fish in the EEZs of several SPC member countries and territories under access agreements and on the high seas.

Question 3: Major landing ports or transboarding points for products of IUU fishing activities

87. **NAFO**, in its report to FAO of 6 May 1999, states that as a practical outcome of NAFO efforts to curb IUU fishing, the vessel "Albri II" of Belize, was identified in port Torshavn (12 February 1999) by the Faroes Inspection Unit, and was prohibited the discharge of its fish product.

88. **NPAFC**, in its report of 29 June 1999 to FAO, stated that there is unconfirmed information that salmon caught illegally are exported from Singapore and Hong Kong to NPAFC member countries.

89. **ICCAT**, in comments of 23 July 1999 to FAO, states that in many cases IUU catches are unloaded in the ports of the Contracting Parties, particularly in the case of Mediterranean catches. At sea trans-shipments from IUU fleets to Contracting Party vessels also takes place. Such trans-shipments have been prohibited by the Commission, but it is difficult to evaluate the effectiveness of this regulation.

90. **IOTC**, in its report of 28 July 1999 to FAO, indicated that the highest concentration of IUU fleets has in the past been in Indonesia, Malaysia and Thailand, with relatively smaller numbers based in ports of the Arabian Sea, Sri Lanka and Maldives. Indonesia has taken steps to oblige foreign vessels to register locally but the effect of this policy on statistical reporting is still unknown.

91. **SPC/OFP**, in its report of 16 August 1999 to FAO, notes that open register vessels operating in the WCPO land or trans-ship their catches in several ports in SPC member countries and territories and in ports of southeast Asian countries, such as Thailand and the Philippines.

Question 4: Practical management and enforcement measures to address IUU fisheries production and trade

92. **NEAFC**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 138), stated that it had adopted a "*Recommendation on a Scheme of Control and Enforcement in respect of Fishing Vessels in Areas beyond the Limits of National Fisheries Jurisdiction in the Convention Area*". The scheme, which involved satellite-based vessel monitoring and an obligatory inspection presence by Contracting Parties with more than 10 vessels in the relevant sea areas, as well as a specific follow-up to serious infringements, was adopted at the NEAFC meeting in July 1998 and was anticipated to come into effect on 1 January 1999. The scheme would be the first such international scheme to provide data in a computer-readable form.

93. NEAFC, in a statement of 12 February 1999 by its President, also reported that its Contracting Parties have agreed to permit inspection by a Contracting Party of the vessels of another Contracting Party on the high seas. This agreement requires Contracting Parties to notify the NEAFC Secretariat of vessels authorized to fish in international waters in the region, and requires regular catch reporting to the Secretariat. In addition, NEAFC has agreed measures to be taken when dealing with non-Contracting Parties. For example, if fishing occurs on NEAFC-regulated fish stocks, in contradiction of NEAFC recommendations, non-Contracting Parties may *inter alia* face the

prohibition of landings of those catches.

94. **IBSFC** reported on 29 June 1999 that it has established a set of measures to prevent illegal, unreported and unregulated fishing. These measures became effective on 1 July 1995. Elements related to IUU fishing are as follows:

95. Vessels flying a flag other than that of the Contracting Party in whose waters they are fishing, outside a fisheries agreement between Contracting Parties or with a third country, shall have a specific authorization for defined fishing activity from the official authorities of that Contracting Party and the flag State. The relevant authorities of the authorizing Contracting Party under whose quota the fishing shall take place shall, prior to the commencement of the fishery, communicate to the IBSFC Secretariat the conditions under which this fishery can take place, specifying:

- the species;
- the quantities in live weight;
- the period of the fisheries; and
- the names of the vessels.

96. A reference to the written authorization must be made in the logbook. When landing the catch the written authorization to fish in that Contracting Party's zone must be shown on request to the competent control authorities.

97. Contracting Parties shall, through the relevant authorities, provide other Contracting Parties with monthly statistics broken down by vessel, fishery zone, management area and species managed by IBSFC TACs for landings by vessels from the relevant Contracting Party, including landing of catches obtained under arrangements outside fisheries agreements between the Contracting Parties or with a third country.

98. A Contracting Party shall refuse landings of Cod which have been trans-shipped.

99. A Working Group on Control and Enforcement, Brussels, 20-21 January 1999 adopted a first outline Baltic Sea Control Strategy:

- at national level, elaborate specific objectives and strategies for controlling the cod, sprat, herring and salmon fisheries, and specify appropriate means to achieve these strategies/targets;
- ensure that effective and equitable enforcement systems are put in place and strive towards their gradual harmonisation and equitable prosecution of infringements; and
- gradually develop integrated systems for reporting, striving towards online/real-time reporting.

100. Recommendations on short term improvements (1-2 years) were made to the 25th Session, including:

- exchange of inspectors including coordinated inspection actions;
- consider amending vessel list of cod and the establishment of a full fleet register;
- revise current hail system and integrate it with satellite tracking and associated electronic network provided the appropriate financial means are available;
- control of non-contracting parties (Faroese Islands, Norway); and
- control of trans-shipments.

101. In addition, recommendations for medium term improvements (3-5 years) were made, including:

- electronic network (data links between Contracting Parties);
- computerisation, cross checking and harmonisation of logbooks;

- uniform inspection form;
- computerized data exchange; and
- necessary control of markets and structures.

102. **NAFO**, in its reports to FAO of 6 May and 2 December 1999, stated that an administrative structure to tackle the IUU fishing problem has been built around a Standing Committee on Fishing Activities of non-Contracting Parties in the Regulatory Area, for which the terms of reference are:

- obtain and compile all available information on the fishing activities of non-Contracting Parties in the Regulatory Area, including details on the type, flag and name of vessels and reported or estimated catches by species and area;
- obtain and compile all available information on landings, and trans-shipments of fish caught in the Regulatory Area by non-Contracting Parties, including details on the name and flag of the vessels, the quantities by species landed, trans-shipped; and the countries and ports through which the product was shipped;
- examine and assess all options open to NAFO Contracting Parties including measures to control imports of fish caught by non-Contracting Party vessels in the Regulatory Area and to prevent the reflagging of fishing vessels to fish under the flags of non-Contracting Parties; and
- recommend to the General Council measures to resolve the problem.

103. There is some evidence that the level of activity by non-Contracting Parties has declined in recent years, suggesting NAFO's strategy through the Standing Committee is having an effect. Actions by NAFO against IUU fishing include the following:

- diplomatic demarches to the Governments of the flag-States of vessels. In 1997-1999, upon the decision by the General Council the diplomatic demarches were presented to the Governments of Belize, Honduras, Panama, Sao Tome e Principe and Sierra Leone; and
- adoption of a NAFO Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO, at the 19th Annual Meeting of NAFO in September 1997. Under the Scheme, all NCP vessels' activity would be monitored by NAFO Contracting Party platforms (fishing and inspection) and landings/trans-shipments of NCP vessels would be prohibited in Contracting Party ports.

104. NAFO further decided in September 1999 to circulate information on non-Contracting Party activity to all NAFO Contracting Parties and (in summary form) to other relevant international fisheries organizations – ICCAT, NASCO, NEAFC, IBSFC and CCAMLR. In addition, NAFO Contracting Parties agreed they:

- will report at their next Annual Meeting on what legal, administrative and practical action they have taken to implement the Scheme to promote compliance with NAFO measures by non-Contracting Parties;
- for the purpose of implementing the Scheme, will regard as a non-Contracting Party any vessel which they have reasonable grounds to believe to be without nationality;
- may, where such a vessel is sighted in the NAFO Regulatory Area, board and inspect the vessel and, if warranted, take such further action as may be appropriate under international law (to this end, Contracting Parties are encouraged to examine the appropriateness of domestic measures to exercise jurisdiction over such vessels); and
- will share with other Contracting Parties any reports they prepare for FAO on IUU fishing issues.

105. **The International Pacific Halibut Commission**, in a brief comment of 22 July 1999 to FAO stated that it does not view IUU fishing as a significant issue for Pacific halibut. In large measure this stems from the relatively near-shore distribution of halibut (making unobserved activities by third parties less likely) and the IQ (individual quotas) management framework for halibut. The IQ framework provides incentives for quota harvesters to report IUU fishing because it negatively impacts their quota shares directly. This framework thereby creates a very large monitoring community and for that reason commends itself as one component of plans for dealing with IUU

fishing in other jurisdictions. The two contracting parties to the Commission (Canada and the U.S.) also maintain active enforcement programs for halibut.

106. **NPAFC**, in its report of 29 June 1999 to FAO, stated that directed fishing for anadromous fish is prohibited in the Convention Area, which comprises the waters of the North Pacific Ocean and adjacent seas, north of 33 degrees North Latitude beyond 200 nautical miles. The anadromous fish covered by the Convention are cherry, chum, coho, pink, sockeye, and chinook salmon, and steelhead trout. Each Party shall take all necessary measures to ensure that its nationals and fishing vessels flying its flag comply with the provisions of the Convention. The Commission promotes the exchange of information on any activities, especially with respect to fishing for and trafficking in anadromous fish, contrary to the provisions of the Convention. Certain non-Contracting Parties have expressed their full cooperation concerning the Convention's prohibition on directed high seas fishing for salmon.

107. The following specific, practical measures are taken by NPAFC and the Parties:

- the Parties have sent patrol aircraft and vessels for monitoring and surveillance of salmon fishing on the high seas in the North Pacific Ocean every year since 1993. All Parties provide detailed reports at the NPAFC annual meetings which contain descriptions of their enforcement activities, including discovery of violations of the provisions of the Convention. The following is the result of enforcement activities:

	Sightings of "illegal" fishing operations*	Apprehensions of "illegal" fishing vessels*
1993	6	2
1994	1	0
1995	4	1
1996	1	1
1997	6	2
1998	7	4

* mainly non-Contracting Party and/or stateless vessels

- the Parties submit to the Commission their salmon catch and trade statistics. The Commission asks non-member countries who are involved with salmon production to provide the Commission with their catch statistics;
- the Commission invites certain other States of origin to become Parties to the Convention. It also invites them to attend the NPAFC annual meetings in an observer capacity if they have not acceded to the Convention by that time; and
- the Commission recommended that the Parties, as appropriate, encourage States or entities not party to the Convention to whom the FAO Compliance Agreement is open for acceptance, to deposit their instruments of acceptance with the Director-General of the FAO as soon as possible.

108. **CECAF**, in its report of 25 August 1999 to FAO, indicated that recommendations to member countries include:

- to harmonise rules and regulations governing trade in fisheries products;
- to improve infrastructure such as inter-state roads;
- to study the level of informal trans-border trade; and
- to intensify the dissemination of information among stakeholders.

109. The setting up of a sub-regional aerial surveillance project for Mauritania, Senegal, Gambia, Guinea-Bissau, Guinea and Sierra Leone, financed by the Luxembourg Government, has improved management of the resources in that part of the region.

110. As MCS is a very expensive activity, especially for individual countries, CECAF member countries are constantly urged to strengthen sub-regional and regional co-operation in managing and controlling fishing in their territorial waters. Regular exchange of information on licensed vessels

and their specifications can also help in tracking down vessels involved in illegal fishing, even though some situations have severe political implications for some countries.

111. **CCSBT**, in its reports of 30 June 1999 and 14 January 2000 to FAO, stated that with regard to action being taken directly by the Commission to curb unregulated fishing for southern bluefin tuna, the following measures are being taken:

- the Commission has initiated a Plan of Action to encourage countries and entities which have not acceded to the Convention and whose fleets take significant quantities of southern bluefin tuna, to accede to the Convention or cooperate with the Commission's conservation and management measures, as appropriate. Direct discussions, initiated in 1998 are continuing, and representatives attend Commission meetings as observers; and
- at its meeting in November 1999 the CCSBT agreed to the introduction of a Trade Information Scheme from 1 June 2000 to, amongst other things, collect more accurate and comprehensive data on SBT fishing, by monitoring SBT trade. The scheme provides that all members of CCSBT will require all SBT imported into their country to be accompanied by a document validated by a designated official of the competent authority of the exporting country or entity. The certificate will be required to include, amongst other things, information relating to the origin of the fish and method of capture. Some internal technical issues still need to be finalised; however resolution of these will not delay implementation of the scheme.

112. **IOTC**, in its report of 28 July 1999 to FAO, stated that Australia, Sri Lanka, Maldives and the British Indian Ocean Territories (BIOT) have implemented VMS monitoring and Seychelles (together possibly with the other *Commission de l'océan Indien* member States) is planning to introduce a system. Australia, Seychelles and the BIOT monitor foreign fishing effectively and obtain significant benefits (other than those provided under agreements with the EC).

113. The only trade measures related to Indian Ocean tuna fisheries at this time concern a certification scheme for southern bluefin tuna (see CCSBT).

114. The **FFA**, in its report of 16 December 1999 to FAO, stated that many countries in the central and western Pacific have fisheries management plans that include detailed management and MCS measures. Fisheries production is controlled to an extent through some national input and output controls, and the Palau Agreement applies overall vessel limits in the purse seine fishery within FFA member countries. In addition, the multilateral high level conference (MHLC) process is nearing completion and will result in the implementation of an overall conservation and management agreement for the entire western and central Pacific, including both in-zone and high seas areas.

115. **IATTC**, in its short communication of 2 July 1999 and report of 22 September 1999 to FAO, notes that the process of data acquisition and monitoring of fisheries by the Commission is in many instances significantly different from that of other regional fisheries bodies. While many regional bodies depend on the provision of data and analysis by national agencies, IATTC maintains an independent scientific staff and offices in major fishing ports to collect information directly from vessels, managers and processing facilities, in addition to obtaining some information from national agencies.

116. IATTC is not normally in the position of determining whether or not a particular fishing event is illegal. The process by which the management and conservation recommendations of the Commission are implemented is by adoption of a resolution by representatives of member nations that states the nature of a regulatory action, thence transmittal of the resolution to signatory nations for subsequent implementation of national regulations codifying actions to be taken in support of the resolution. In the case of measures concerning dolphins, a review panel considers reports of vessel activity and, if warranted, recommends further investigation to the governments. The governments then determine if activities of fishing companies fall within the definition of restricted actions under the regulations and report back. Also, following the restriction of the surface fishery for yellowfin tuna last year the Commission did examine data which indicated that vessels of both Parties and non-Parties were not complying fully with the measures.

117. In the case of the fisheries which harvest tunas and tuna-like fish in the eastern Pacific Ocean, member States of IATTC include nations which have open registries for vessels, in particular Panama and Vanuatu. The catch made by the surface gear fisheries of these nations is monitored, as is catch for other nations, by IATTC staff. Thus, in most instances the statistics for the fisheries of the region are available and are reported, despite the fact that all nations do not maintain a program for collecting such information. As well, for purse-seine fisheries, this availability of data is enhanced by participation of the nations in the dolphin conservation program in place in the eastern Pacific Ocean. All large tuna purse-seiners in the eastern Pacific Ocean carry an observer pursuant to this program.

118. In respect of long-line fishing there is currently one relevant IATTC resolution, which welcomes Japan's initiative to reduce the number of large-scale tuna long-line fishing vessels by 20% and calls upon other large-scale tuna long-line fishing States/entities/fishing entities to undertake similar initiatives with respect to their tuna long-line fleets in the eastern Pacific Ocean.

119. **ICCAT**, in comments of 23 July 1999 to FAO, stated that every effort has been made to identify the IUU fishing vessels, then discourage such operations, including through the enforcement of trade measures where necessary. ICCAT noted that there is some misidentification of flags for exported bluefin tuna in the accompanying, validated Statistical Document (see below). Specific steps taken by ICCAT to solve the problem of IUU fishing include:

- the Commission informs relevant flag countries that their fleet is fishing without complying with the ICCAT regulatory measures. This is done either by direct contact with the Government of flag countries by the Secretariat, or through diplomatic channels of the Contracting Parties;
- estimates of unreported and unregulated catches are made, mostly through trade data (customs data);
- in order to try to ensure compliance with the very strict regulations in place for bluefin tuna, which were not being respected and gave rise to IUU fishing, the Commission adopted a special Bluefin Tuna Statistical Document Program. Through this regulation, all ICCAT Contracting Parties are obliged to request a document showing information such as quantity, flag of vessels which caught the fish, area of catches etc. validated by Government officials, when bluefin tuna are imported;
- the Commission took several measures to identify the vessels fishing in breach of the ICCAT regulations. (e.g. reports of vessel sightings);
- the Commission has adopted an action plan for enforcing regulatory measures for those vessels fishing contrary to the ICCAT conservation measures. This action plan specifies step-by-step actions. The final step is the prohibition of imports of bluefin tuna (or swordfish) from certain countries whose flag vessels so operate.
- after these IUU vessels are identified, the Commission gives a formal warning to those flag countries and requests them to rectify the situation; and
- if countries receiving such a warning do not rectify their IUU operations, the Commission may decide to prohibit imports of bluefin tuna or swordfish from these countries. This prohibition has already been implemented in the case of bluefin tuna imports from certain countries.

120. ICCAT has advised the outcome of its 1999 Annual Meeting, where further detailed consideration was given to action to curb IUU fishing. Full documentation is available from the ICCAT Secretariat. The key outcomes with respect to IUU fishing were:

- a Resolution which *inter alia* fully endorses the FAO initiative to develop an international plan of action to combat IUU fishing and calls on Contracting Parties and others to participate actively in this work;
- a Resolution calling for further action against IUU fishing in the ICCAT area and other areas by large scale tuna long-line fishing vessels. This Resolution expresses concern that such IUU fishing has increased and is diminishing the effectiveness of ICCAT conservation and

management measures, and recognizes the evidence that many owners of these vessels have reflagged them to avoid compliance with ICCAT conservation and management measures and to evade the non-discriminatory trade restrictive measures that ICCAT has adopted. It notes that most of the vessels of concern are owned and operated by business entities from Taiwan Province of China, supports the joint efforts (reported earlier in this review) to eliminate their participation in IUU fishing and calls for further efforts by Japan and Taiwan Province of China to this end, but recognises with grave concern that other large scale tuna long-line vessels, now under construction in Taiwan Province of China, have a high potential to engage in IUU fishing. The Resolution calls for further action by Contracting Parties and others to:

- ensure large scale tuna long-line vessels on their registries do not carry out IUU fishing (for example, by denying them licences to fish);
 - take every possible action consistent with relevant laws to urge all businesses and others involved in importing and transporting tuna and tuna-like species to refrain from any trans-shipment or other action involving fish taken through IUU fishing; and
 - inform the public of the causes of IUU fishing and urge them not to purchase such fish; and to urge all involved in manufacturing fishing vessels and equipment to prevent its being used in IUU fishing activities;
- a Recommendation that the previous ICCAT prohibition on Contracting Parties importing bluefin tuna from Panama be lifted as soon as possible in view of the steps recently taken by Panama to reduce substantially the activities of its vessels identified as diminishing the effectiveness of ICCAT conservation and management measures. Action by Panama recognized by ICCAT in this context included not authorizing the registration of any bluefin tuna fishing vessel in the ICCAT area, reducing the Panamanian registry to 85 vessels with an authorized International Fishing Licence, compiling fishing data, refusing to validate Bluefin Tuna Statistical Documents, and undertaking efforts to apply the ICCAT Port Inspection Scheme to Panamanian flagged vessels²⁷;
 - a Recommendation to extend the current prohibition on Contracting Parties importing bluefin tuna from Belize and Honduras to a prohibition of imports of Atlantic swordfish and its products in any form from those countries until their fishing practices have become consistent with ICCAT measures. This recommendation was made in recognition by ICCAT of Belize and Honduras as countries whose vessels have been fishing for Atlantic swordfish in a manner which diminishes the effectiveness of ICCAT swordfish conservation measures, despite action by ICCAT over many years to encourage them to comply with these measures;
 - a Recommendation to prohibit the import of Atlantic bluefin tuna and its products in any form from Equatorial Guinea, a Contracting Party, until its fishing practices have become consistent with ICCAT measures. This recommendation was made in recognition by ICCAT of compelling evidence of significant exports of Atlantic bluefin tuna from Equatorial Guinea in 1997, 1998 and 1999, despite its having had a catch limit of zero for the fish, and in the light of its failure to respond to expressions of concern or to seek to cooperate with ICCAT over the past several years; and
 - the publication of a list of around 340 long-line tuna fishing vessels (albeit with the possibility of some double counting) claimed to be involved in IUU fishing and flagged to countries operating open registers in 1999. An analysis of this list indicates that approximately 30% of these vessels are flagged to Honduras, 24% to Belize, 15% to Saint Vincent and the Grenadines, 15% to Equatorial Guinea, 6% to the Philippines and 10% to other flags. None

²⁷ See P M Miyake *et al*, "Response to the Commission's 1997 recommendations concerning unreported and NEI catches: History of Panamanian flag tuna fleet and actions taken by Panama to improve its statistics and compliance with management measures", COM-SCRS/99/13(REV), ICCAT 1999. According to this report, Panama now has an effective control mechanism in place for its fishing vessels and is enforcing all the decisions adopted by international fishing forums such as ICCAT. The report states that Panama has taken legislative action to abolish its open register for fishing vessels and to permit fishing for tuna only by vessels holding a licence to do so; a data base for fishing vessel licences and registration is in preparation; and Panama has legislated for satellite-based VMS to be required on all tuna fishing vessels and has accepted the ICCAT Port Inspection Scheme, allowing Panamanian vessels to be inspected at foreign ports.

of these vessels was shown as being flagged to Panama.

121. **CCAMLR**, in its reports and documents to FAO of 14 May and 12 November 1999, stated that in November 1999 it adopted a “*Catch Documentation Scheme*” to combat IUU fishing for toothfish (*Dissostichus* spp.) in the CCAMLR region.²⁸ In addition, it has adopted a “*Policy to Enhance Cooperation Between CCAMLR and non-Contracting Parties*”, including those implicated in IUU fishing, in order to ensure the effectiveness of CCAMLR Conservation Measures and to eliminate IUU fishing, including that by non-Contracting Parties.

122. The CCAMLR catch documentation scheme (CCDS) is the latest CCAMLR conservation measure in an ongoing strategy by CCAMLR to combat IUU fishing. To address this problem a number of conservation measures have been introduced by CCAMLR over the last three years relating to the toothfish fisheries. These measures in particular include:

- flag State licensing requirement for all vessels in the fisheries;
- conservation measures fixing fishing levels for all toothfish fisheries in the Convention’s waters;
- mandatory vessel monitoring systems (VMS);
- port inspection of their own vessels by Contracting Parties to check compliance with licence conditions;
- port inspections of landings and trans-shipments made in ports of CCAMLR Members by non-Contracting Party vessels sighted fishing in the Convention Area; and
- marking of vessels and fishing gear.

123. In addition there has been an intensification of control in the Convention Area. Consequently, the number of inspections followed by sanctions has also increased, reaching a peak in 1998.

124. Of particular note is the CCAMLR presumption that any non-contracting Party vessel sighted engaged in fishing activities in the Convention Area is undermining the effectiveness of CCAMLR conservation measures. Vessels so sighted will be informed they have been sighted and this information will be provided to all Contracting Parties and to the vessel’s flag State.

125. The purpose of the CCDS is;

- to monitor the international trade in toothfish;
- to identify the origins of toothfish imported into or exported from the territories of Contracting Parties;
- to determine whether toothfish imported into or exported from the territories of Contracting Parties, if caught in the Convention Area, was caught in a manner consistent with CCAMLR conservation measures; and
- to gather catch data for the scientific evaluation of the stocks.

126. To meet this purpose, all landings, trans-shipments and importations of toothfish into the territories of Contracting Parties will require to be accompanied by a completed Catch Document. This will specify a range of information relating to the volume and location of catch, and the name and flag State of the vessel.

127. This Catch Documentation Scheme will become operative on 7 May 2000 and will be open to all flag States irrespective of whether they are members of CCAMLR or not.

128. Non-Contracting Parties to CCAMLR are invited to participate in the CCDS. To do so they will need to ensure that their vessels are provided with *Dissostichus* Catch Documents for

²⁸ Detailed information on the CCAMLR Catch Documentation Scheme and related CCAMLR conservation measures is available from the CCAMLR Secretariat.

presentation to Contracting Party authorities as required.

129. The CCAMLR policy to enhance cooperation with non-Contracting Parties, also adopted in November 1999, includes the following elements:

- the Executive Secretary will develop a list of non-Contracting Parties implicated in IUU fishing and/or trade either after the adoption of this policy or during the three years prior, which has undermined the effectiveness of CCAMLR Conservation Measures;
- the Chairman of the Commission shall write to the Minister for Foreign Affairs of each non-Contracting Party included in the above list explaining how IUU fishing undermines the effectiveness of CCAMLR conservation measures. The letter, as appropriate, will:
 - (a) invite and encourage non-Contracting Parties to attend as observers at meetings of the Commission in order to improve their understanding of the work of the Commission and the effects of IUU fishing;
 - (b) encourage non-Contracting Parties to accede to the Convention;
 - (c) inform non-Contracting Parties of the development and implementation of the CCAMLR Catch Documentation Scheme for *Dissostichus* spp. and provide them with a copy of the conservation measure and the explanatory memorandum;
 - (d) encourage non-Contracting Parties to participate in the CCAMLR catch documentation scheme and draw their attention to the consequences for them of not participating;
 - (e) request non-Contracting Parties to prevent their flag vessels from fishing in the Convention Area in a manner which undermines the effectiveness of measures adopted by CCAMLR to ensure conservation and sustainably managed fisheries;
 - (f) if their flag vessels are involved in IUU fishing, request non-Contracting Parties to provide information to the CCAMLR Secretariat on their vessels' activities, including catch and effort data;
 - (g) seek the assistance of non-Contracting Parties in investigating the activities of their flag vessels suspected of being involved in IUU fishing, including inspecting such vessels when they next reach port;
 - (h) request non-Contracting Parties to report to the CCAMLR Secretariat on landings and trans-shipments in their ports in accordance with a specified format; and
 - (i) request non-Contracting Parties to deny landing or trans-shipments in their ports for fish harvested in CCAMLR waters not taken in compliance with CCAMLR conservation measures and requirements under the Convention;
- parties shall individually and collectively take all appropriate efforts to implement or assist in the implementation of this policy; such efforts may include taking concerted action on joint demarches on non-Contracting Parties to complement correspondence from the Chairman;
- the Commission will annually review the effectiveness of the implementation of this policy; and
- the Executive Secretary will regularly inform non-Contracting Parties concerned of new conservation measures adopted by CCAMLR.

130. At its 1998 meeting, CCAMLR reiterated its request to all international and regional fisheries organisations, especially those organisations with jurisdiction over waters adjacent to the CCAMLR Convention Area, to cooperate in combating IUU fishing. In particular, CCAMLR seeks cooperation towards the implementation of the CCAMLR conservation measure relating to the refusal of landings and trans-shipment of fish caught in violation of CCAMLR conservation measures and other requirements under the CCAMLR Convention.

131. **The APEC Fisheries Working Group** (FWG) held an *ad hoc* workshop on fisheries management in Kesen-numa, Japan, on 13-15 July 1999²⁹. Several issues related to IUU fishing

²⁹ APEC Economies present at the workshop were Australia, Brunei Darussalam, Canada, Chile, Japan, Republic of Korea,

were considered, as summarised below. The report of the workshop and actions agreed will be recommended for endorsement to the May 2000 meeting of the FWG.

Management of Fishing Capacity and Conservation

132. Member Economies welcomed the initiatives of FAO, as expressed through the International Plan of Action for the Management of Fishing Capacity, and stressed the urgent action required to solve the many problems causing over-capacity.

133. Member Economies agreed they will provide data, on a voluntary basis, on vessels that are over 24 meters in length and are authorized to operate on the high seas, whether or not they operate exclusively on the high seas or on the high seas and inside EEZs. The data will be provided to the APEC FWG Lead Shepherd in a format consistent with the reporting provisions of the FAO Compliance Agreement. Data on high seas vessels will be collated and distributed to APEC Member Economies before the 11th FWG meeting. The FWG will form a task force to consider how to utilize the above data to better understand high seas fisheries issues and how to remedy these problems in the APEC region.

134. Member Economies also adopted a recommendation calling for reduction in over-capacity of tuna long-line vessels.

Measures Against Fishing Vessels from Non-Member States and Open Register Fishing Vessels

135. A Member Economy provided a list of open register vessels and reported that the open register problem was becoming more diverse and complex. Open register vessels are moving to new flag States and from one place to another to avoid agreed international regulation and regional conservation and management measures.

136. Member Economies agreed that global cooperation will be required for immediate action on this issue to ensure the effectiveness of vessel reduction programs by APEC Economies as well as fair competition between vessels.

137. In addition to implementing existing international agreements such as the FAO Compliance Agreement, the UN Fish Stocks Agreement and the FAO Code of Conduct for Responsible Fisheries, a variety of measures should be assessed for resolution of this issue with due consideration given to international obligations of Member Economies. These measures could include, *inter alia*, prohibition on landing and port call, restriction of export of fishing vessels, trade measures, license suspension, restriction of transfer of fishing masters, monitoring and survey programs.

138. Member Economies should make efforts to ensure their participation in regional and international fisheries management organizations.

139. The APEC Secretariat will write to open register countries informing them of the actions that the APEC FWG intends to take toward the solution of this issue.

140. Member Economies adopted a recommendation to address the issue of open register fishing vessels.

Measures Against IUU Fishing Activities

141. Member Economies noted an FAO Secretariat report on this matter, including that the FAO, under the auspices of the Australian Economy, would hold a workshop in early 2000 to address the IUU issue, followed by a Technical Consultation before the next meeting of the FAO Committee on Fisheries.

142. Member Economies agreed they would need to consult further among themselves on several aspects of these meetings. They made some preliminary suggestions for topics, including landing and port call prohibition, international inspection schemes, input and output control, trade measures, eco-labeling, administration of fishing vessel registries, improved vessel monitoring systems, information exchange on ratification of the FAO Compliance Agreement and study on provisions of the International Maritime Organization regarding open register regulation.

143. Subject to an opinion on legal and privacy considerations, the FWG will develop and disseminate a list of IUU and open register vessels.

144. Member Economies adopted a recommendation on IUU fishing. They also supported, subject to formal endorsement at the 11th FWG, a draft project proposal by one Member Economy for identifying and assessing the effectiveness of trade measures against IUU, open register and non-member fishing operations.

Question 5: Other planned/envisaged actions/options to curb IUU fishing

145. **ICES**, in its report of 2 July 1999 to FAO, notes that it may be in a position by the end of 1999 to provide a comparison between its own best estimates of catches (which include estimates of discards, by-catches, and other unreported catches) and officially reported catches. It suggests this information may be relevant to the ongoing work on IUU fishing.

146. **NASCO**, in its report to FAO of 12 July 1999, in the light of continuing concern about unreported catches of salmon, states that it will continue to review its management control and reporting systems, the estimates of unreported catch and their reliability and the measures taken to further minimise the level of unreported catches.

147. **NAFO**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 135), reported that its General Council had been working on the problem of non-Contracting Parties fishing in the NAFO regulatory area and, as a result, had adopted a "*Scheme to promote compliance by non-Contracting Party vessels with the conservation and enforcement measures established by NAFO*". The scheme presumed that a non-Contracting Party vessel sighted engaging in fishing activities in the NAFO regulatory area was undermining the NAFO conservation and enforcement measures. If such vessels entered into the ports of Contracting Parties, they ought to be inspected. No landings or trans-shipments would be permitted in Contracting Party ports unless such vessels could establish that certain species on board had not been caught in the NAFO regulatory area, and for certain other species that the vessel had applied the NAFO conservation and enforcement measures. Contracting Parties had to report the results of inspections to NAFO and all Contracting Parties

148. In a personal comment on 6 May 1999, based on the premise that the international community should have rights to deploy more concrete and practical measures, globally and nationally, against IUU fishing, the NAFO Executive Secretary suggested that such rights might include:

- the right of international inspection forces to board Non-Contracting Party (NCP) vessels;
- the right to confiscate all fish caught in the Convention/Regulatory Area(s) by NCP vessels fishing in contravention of established regulations (TAC, quota, mesh size, minimum fish size, moratorium, by-catch, reporting requirements, etc.);
- the right to confiscate all fishing gear and even vessels if the damage to the fish stocks is substantial enough to justify such an action; and
- the right to bring the owners of vessels to an international court on charges of destruction of or damage to globally protected common property.

149. **IOTC**, in its report of 28 July 1999 to FAO, stated that the Third Session of the Indian Ocean Tuna Commission adopted a recommendation concerning registration and exchange of information on vessels, including flag of convenience vessels, fishing for tropical tunas in the IOTC area of

competence. This calls for contracting and cooperating parties to provide detailed information on all long-liners over 24m in length overall flying their flags and on all long-liners licensed by them, irrespective of size.

150. At its Fourth session in December 1999, the IOTC adopted a resolution calling for actions against fishing activities by large scale open register long-line vessels. Among other things, the resolution seeks to address this concern by actions to deny fishing licences, refuse landing and trans-shipment of catch from such vessels, urge importers and others in the market chain to refrain from any transactions involving this catch, educate the public not to purchase product sourced from open register operations, more effectively monitor and report such operations (including through port sampling), repatriate or scrap vessels flying the flags of open registers and prepare possible measures, including trade restrictive measures, to prevent or eliminate open register operations.

151. The IOTC also adopted a resolution on the management of fishing capacity in the context of its concern about IUU fishing in the IOTC area of competence which, *inter alia*, requests its Scientific Committee to provide recommendations on the optimum fishing capacity to permit the sustainable exploitation of tropical tunas, as a basis for the IOTC to consider limiting fishing capacity to an appropriate level.

152. **FFA**, in its report of 16 December 1999 to FAO, reported that its Harmonised Minimum Terms and Conditions for Foreign Fishing Vessel Access³⁰ form the cornerstone of its work to develop effective mechanisms to curb IUU fishing. The introduction of the FFA member country VMS will also assist in dealing with IUU fishing. This involves establishing a VMS hub at FFA headquarters, with information being transmitted to computer sites in member countries. In this way, all FFA member countries have access to a state of the art Inmarsat C based VMS for a fraction of the cost (and none of the difficulties) of national level installation, maintenance and upgrade.

153. **CCAMLR**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 140), advised that it had started to develop an integrated set of new political and legal measures to resolve the complex situation caused by IUU fishing in the Convention area. These included the adoption in 1997 of: (a) a scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures (Conservation Measure 118/XVI); (b) a requirement that Contracting Parties license vessels flying their flag in the Convention area (Conservation Measure 119/XVI); and (c) vessel monitoring systems: amendments to the text of the system of inspection and mechanisms to address the actions of non-Contracting Parties (resolution 12/XVI). In updating this information in November 1999, CCAMLR indicated that, in adopting the Catch Documentation Scheme, it had invited several non-Contracting Parties to participate in the scheme. CCAMLR will in future consider other actions, including the collection of comprehensive landings and trade statistics for toothfish species and development of a comprehensive vessel register. At its next meeting, in November 2000, CCAMLR will consider whether there is a need to introduce any additional trade-related measures with respect to landings and trans-shipments of toothfish caught in the Convention Area.

154. **IATTC**, in its short communication of 2 July 1999 and report of 22 September 1999 to FAO, indicates that it plans to develop a register of long-line vessels authorized to fish in the eastern Pacific Ocean, but until that is done it does not know if all long-line vessels fishing in the eastern Pacific Ocean are authorized to do so by their flag states.

155. IATTC also notes that in a July, 1999, meeting of the tuna commission secretariats attended by representatives of the CCSBT, IATTC, ICCAT, IOTC, and SPC, these regional tuna bodies noted the difficulties of tracking vessels as they change flags and areas of operation, frequently several times in one year. It was decided that each commission should identify licensing requirements for tuna fishing vessels and establish a registry of such vessels active in their areas of competence, including documentation of licenses held by the vessels. It was also decided that the Commissions should exchange the information in the registries and also with FAO in order to facilitate tracking of

³⁰ A copy of these terms and conditions will be available at the expert consultation on IUU fishing in Sydney.

vessels moving between oceans. It was decided that SPC should liaise with FFA in order to secure participation by FFA in the exchange of vessel registries. Further, it was decided that the Commissions should cooperate with investigations into activities of specific vessels fishing for tunas.

156. In addition to taking the steps noted above, the meeting of secretariats also noted that regulatory actions taken in one region may have an impact on fleet operations and fishing effort in another region. Thus, each body will keep others informed of such regulations and activities. Further, with the exception of southern bluefin tuna, the sale of which is easily tracked through markets, the tracking of catches from area of origin to sale can be problematic. The bodies agreed to extensive exchange of information on catches and fishing effort, which should make it easier for tracking of catches. As well, the secretariats noted the value of the Compliance Agreement and agreed to promote its ratification in their respective bodies.

157. **ICCAT**, in comments of 23 July to FAO, states that implementation of prohibition of at sea trans-shipments might be the key to prevent further IUU activities. Also, some Contracting Parties have been importing bluefin tuna without the accompanying Statistical Document and this is undermining the effectiveness of this system. This needs further investigation. The practical implementation of the FAO Compliance Agreement, even before it comes into effect, might help the situation.

Question 6: *Suggestions on how IUU fishing might be addressed at the global level*

158. **NPAFC**, in its report of 29 June 1999 to FAO, stated that since the instances of IUU fishing for various species have specific characteristics and backgrounds, it may be difficult to find universal measures to deter IUU fishing generally. Regional intergovernmental fishery organizations or arrangements should examine their own problems with IUU fishing and try to find practical measures which are acceptable for all concerned countries. However, it is important to recognize the necessity to reduce IUU fishing at the global level by addressing it at FAO's meetings such as COFI. It will be useful to hold expert consultations with attendance from various countries and organizations on the global level. Possible topics may be techniques and technology for enforcement at sea, and frameworks for collecting information on IUU fishing.

159. **CECAF**, in its report of 25 August 1999 to FAO, suggests that it is known that the major culprits of IUU fishing are involved in changing registration and flags and trans-shipment of catch. Therefore, international cooperation should be enhanced in the exchange of information on licensing of vessels whereby their registration specifications will be made available through an international body. This might facilitate the tracking of vessels, but only if the cost of accessing the information is affordable to developing countries, especially those badly affected.

160. Another measure that can contribute to reducing IUU operations is a total ban on trans-shipment at sea. Otherwise, there should be a body where all trans-shipments are declared and the information can be accessible to all countries, even at a fee.

161. **APFIC**, in its communication of 29 June 1999 to FAO, suggested the only way to address the IUU fishing problem is to enforce requirements for proper catch reporting as well as proper reporting at landing ports. The duty of fishing States and port States under the Code of Conduct for Responsible Fisheries and other instruments such as the UN Fish Stocks Agreement and the Compliance Agreement must be emphasized as being fundamental in addressing the IUU fishing problem.

162. **IOTC**, in its report of 28 July 1999 to FAO, commented that IUU fishing for tunas can probably only be curbed by port State control of the activities of flag of convenience vessels. Implementation of the Compliance Agreement would certainly help in this respect. Port States must however be prepared to forego benefits from trans-shipment activities related to IUU fishing. Recent bans on landing of IUU Patagonian toothfish in Indian Ocean ports have shown that State-to-State contacts can influence countries to take action, even when they are not parties to management arrangements for the species in question.

163. IOTC also noted that an informal meeting of the Secretariats of regional tuna bodies (the Coordinating Meeting of Secretariats of Tuna Agencies and Programmes) took place in Luxembourg, 10 July, 1999. It was decided that, in order to better track the movement of highly mobile tuna fleets between oceans, the agencies would share vessel register information. Disappearance of a vessel from one area could signal either a change of flag, removal of the vessel from the fishery or movement into another ocean. Of particular concern is the rapid change of registry by some open register vessels.

164. The Coordinating Meeting also agreed to keep all the other agencies informed of management or enforcement measures taken by any of the bodies, as more severe regimes in one area could motivate fleets to move to other oceans. The adoption of measures by one agency could also facilitate the adoption of similar rules in the other agencies.

165. **FFA**, in its report of 16 December 1999 to FAO, suggests that at the global level harmonization of MCS measures might be one way of addressing IUU fishing. Key elements of this would be standardized logsheet formats, VMS, compliance observer programs and boarding and inspection procedures. Action to restrict the operation of open register vessels and improved flag State responsibility for vessels operating on the high seas would also be of assistance.

166. **ICCAT**, in comments of 23 July 1999 to FAO, states that it would be beneficial if all the regional agencies concerned in stock management collaborated to exchange information about the movement of IUU fishing fleets. This cooperation has already started. Unfortunately, it is difficult to monitor IUU fishing activities on the high seas. ICCAT is particularly aware of the problem, as IUU fleets concentrate their operations on bluefin tuna in the Mediterranean Sea during a two month period, and particularly as these tunas are imported into a very limited number of countries, which is one of the major reasons why the system which ICCAT established has been effective.

167. In addressing IUU fishing, ICCAT notes its experience that as soon as imports from certain countries were prohibited, the vessels flying the flags of those countries changed their registration and flag. ICCAT warned the country in which the vessels were newly registered, and as a result most of these vessels again changed flag. Moreover, in 1998 and 1999, some Contracting Parties had themselves been involved in IUU fishing operations.

168. LVFO, in comments of 23 July 1999 and 9 March 2000 to FAO, indicated the existence of IUU fishing on Lake Victoria in the form of some trawling, beach seining and other illegal methods, all of which are banned by Kenya, Uganda and Tanzania. Financial and human resource constraints limit the monitoring of fishing areas, and there is a need to strengthen national and regional fisheries institutions to address these issues, particularly in co-management, law enforcement, data collection and information dissemination. Lake Victoria supports a fishery of some 500,000 tonnes per year of *Lates niloticus* and *Rasteniobola argentea*. In addition, LVFO suggested some IUU-related fishing issues that might be addressed at the global level:

- harmonization of fisheries regulations in countries with shared water bodies for example Kenya, Uganda and Tanzania for Lake Victoria;
- strengthening monitoring and surveillance;
- developing countries should be assisted with facilities like fast boats and radio communication equipment; and
- before exotic species are introduced, there should be exhaustive scientific evidence on their ecological impact.

5. INFORMATION PROVIDED BY OTHER INTERGOVERNMENTAL ORGANIZATIONS

Question 5: Other planned/envisaged actions/options to curb IUU fishing

169. OECS, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 141-144), reported that members and associate States of the organization, with assistance from FAO, had participated in a regional workshop in July/August 1997 on the implementation of the Compliance Agreement and the UN Fish Stocks Agreement. In addition, a draft bill adopted at the end of the workshop, to be approved later by respective Government members, would provide for the establishment of a system for the regulation of fishing vessels of member countries operating outside areas under national jurisdiction.

170. The draft bill would additionally apply, *inter alia*, to any fishing vessel of a State and to any act or omission occurring on or by such a vessel, wherever that vessel might be, as well as to any act or omission by an authorized officer on the high seas. Specifically, the draft provided that the authorities responsible for fisheries would not issue a high seas fishing permit in respect of a vessel unless they had been satisfied that the State would be able to exercise effectively its responsibilities with respect to that vessel under the Compliance Agreement, the UN Fish Stocks Agreement and international conservation and management measures recognized by it. Fisheries authorities could also cancel or suspend a high seas fishing permit where they had determined that the vessel in respect of which the permit had been granted had engaged in activities undermining the effectiveness of international conservation and management measures.

171. OECS also indicated that in 1997, in order to improve the monitoring and control of fishing activities and the enforcement of fishing regulations of its Member and Associate States, it had organized in cooperation with the Canadian International Development Agency (CIDA) several fisheries prosecution workshops. The goal of the workshops was to support the development of harmonized subregional framework for the enforcement of fisheries legislation among OECS member States. The workshops also addressed the enhancement of the enforcement capacity of member States by improving the success rate of prosecuting violations; providing enforcement officers and court officials with a better understanding of scientific, technical and legal issues concerning the laws which they were to enforce; and providing an understanding of the use of technology in gathering evidence. As a follow-up to the project, a Fisheries Prosecution Manual and a Standard Operating Procedures Manual for Fisheries Enforcement were developed and had been implemented since May 1998.

172. OECS had also sought funding from United Nations Development Programme's special unit for Technical Cooperation among Developing Countries (UNDP/TCDC) for a study that would consider the legal options available to members for strengthening subregional and regional cooperation in enforcement, including port State enforcement under the UN Fish Stocks Agreement and the Compliance Agreement, taking into account the Code of Conduct for Responsible Fisheries. It was also seeking financial assistance from UNDP's Caribbean Small Island Developing States Technical Assistance Programme (SIDS/TAP) to organize a regional enforcement workshop aimed at outlining a regional strategy and implementation plan for enhanced monitoring, control and surveillance systems to meet regional needs in fisheries and other ocean-based activities. In addition, OECS was seeking funding for the implementation of a coastal watch program which would utilize fisherfolk, members of the coastal communities, national fisheries divisions and law enforcement agencies to provide information on activities within the maritime jurisdiction of coastal States. Such a programme could be an effective, inexpensive surveillance tool which would assist in the fisheries management of OECS countries.

6. INFORMATION PROVIDED BY NON-GOVERNMENTAL ORGANIZATIONS

6.1 ISOFISH

173. **ISOFISH**³¹ is an NGO which has played a particularly active part in reporting alleged cases of IUU fishing for Patagonian toothfish (*dissostichus eleginoides*) in Antarctic and sub-Antarctic waters and in recommending actions to combat this fishing. Rather than “cut and paste” the material obtained from ISOFISH into the separate questions asked of the regional fisheries bodies, it seemed more appropriate to retain the structure of the material as available. This material is presented in Annex B and summarised below.

174. Patagonian toothfish have been fished in Antarctic and sub-Antarctic waters since the mid-1990s, including in the EEZs of several CCAMLR member States and on the high seas. Overfishing has occurred and stocks have diminished in many areas, according to ISOFISH to the point of imminent collapse. Illegal catch rates are estimated at greater than 100,000 tonnes in the last year, compared with about 10,500 tonnes taken by licensed operators. In addition, very high mortalities of albatross and other seabirds are associated with this IUU fishing.

175. In April 1998, ISOFISH reported an investigation of the role of Mauritius in servicing unlicensed fishing vessels operating in EEZs in the Southern Ocean. The report estimated that at that time some 30,000 tonnes per year of Patagonian toothfish were passing through Port Louis, Mauritius. It called on countries in whose EEZs the fish were being taken to take action both to prevent the IUU fishing and to assist Mauritius to stop them. According to the report, high demand for Patagonian toothfish in Europe, North America and Japan was behind the IUU fishing, with companies and crews from Norway and Denmark prominent in the IUU operations.

176. The involvement of Norwegian operators in IUU fishing for Patagonian toothfish was the focus of another ISOFISH report in October 1998. The report names specific vessels and companies, some of which were identified as being registered in Argentina, Panama and the Cayman Islands. ISOFISH included several suggestions that governments, particularly Norway, should consider implementing to combat this IUU fishing, including withdrawing public money from the companies involved, publishing a black list of vessels, ensuring that banks terminate business links to these operators, and introducing controls over nationals involved in IUU fishing. Other proposals by ISOFISH included action by CCAMLR Contracting Parties to adopt new conservation measures in the CCAMLR region, particularly requiring satellite-based VMS on all vessels operating there, refusing the landing of Patagonian toothfish from vessels unable to satisfy port authorities on the legality of the catch, and requiring comprehensive documentation of all imports and trade in Patagonian toothfish. ISOFISH also suggested the need for strengthened criminal sanctions in national laws, the review of Admiralty Rules, the confiscation of legally acquired assets from those involved in IUU fishing through enhanced “proceeds of crime” legislation, the adoption of unique product codes for toothfish (as the US has done) and the early accession of all CCAMLR States and others involved in the toothfish trade to the UN Fish Stocks Agreement.

177. ISOFISH turned its attention to the Chilean fishing industry in a further report in March 1999. According to the report, Chile is being used as a platform by some 50 boats and 8 companies from Spain and Japan for IUU fishing for Patagonian toothfish. Japan is identified as the principal market for Patagonian toothfish, with the trading company Maruha said to be a major channel for the toothfish trade. The Verdugo group of companies in Chile is named as the source of almost two thirds of all frozen Patagonian toothfish products from Chile. According to the report, ISOFISH will urge the Spanish authorities to bring the Spanish interests involved in this IUU fishing activity under

³¹ ISOFISH is the International Southern Oceans Long-line Fisheries Information Clearing House, a non-government joint venture between conservation organisations and licensed fishing companies. ISOFISH was formed following the 1997 meetings of CCAMLR. ISOFISH aims to collect, collate, analyse, verify and disseminate data, information and reports on long-line fishing in the southern oceans. It believes this will assist governments in preventing IUU fishing and the incidental mortality of albatrosses and other seabirds in these fisheries. ISOFISH has a website at www.isofish.org.au which provides full details of ISOFISH reports and proposals.

control.

178. In May 1999, ISOFISH reported on court proceedings in South Africa in which a member of the crew of a vessel that sank after engaging in IUU fishing for Patagonian toothfish gave evidence of fishing at night without lights in French waters, trans-shipping the catch and keeping watch for the boats of fishing authorities to avoid apprehension. Catch taken illegally on several voyages before the ship sank were landed in Namibia, South Africa and Mauritius. ISOFISH also reported incidents in which an Australian licensed vessel and an Australian patrol boat sighted IUU fishing by long-line vessels inside the CCAMLR area, just outside Australian waters. At least one of the vessels sighted was said to be owned by the same Spanish company which operates vessels previously known to have engaged in IUU fishing in the sub-Antarctic.

179. Since mid 1999, ISOFISH has publicised various proposals for combating IUU fishing for Patagonian toothfish. The major suggestions by ISOFISH include:

- blacklist long-liners engaged in or suspected of IUU fishing for toothfish, on the basis of specific criteria for identifying vessels for blacklisting (the criteria proposed by ISOFISH are included in Annex B);
- implement a catch documentation scheme for toothfish (*Dissostichus* spp.);
- undertake unilateral action by concerned governments where CCAMLR-wide measures cannot be agreed;
- strengthen flag State implementation and prevent reflagging to open registers;
- increase the surveillance and enforcement capacities of coastal States;
- strengthen port State powers with respect to inspection and trans-shipment of catches, including trans-shipment at sea; and
- adopt and implement forms of market control of fish trading and processing companies, including through the licensing of trade in and processing of toothfish and the requirement of export and import permits for each toothfish consignment, with heavy penalties for breaches of permit conditions.

6.2. Information Provided by Other Non-Governmental Organizations

Question 1: *Estimates of catches, trade and potential impact of IUU fishing activities on other marine life*

180. **Greenpeace**, in its contributions to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 148 and 202-204), pointed out that, according to the CCAMLR Scientific Committee, while the total allowable catch of Patagonian toothfish was 32,991 tons in 1997 and 18,000 tons in 1998, the total amount of illegal catch was estimated at about 100,000 and 130,000 tons respectively in those years; the assessments suggested that the species would be commercially extinct within three years if fishing was not brought under control. In addition, the high level of fishing could have an adverse impact on the Southern Ocean ecosystem.

181. Greenpeace also expressed the view that legal and illegal long-line fisheries operating in the Southern Ocean and elsewhere were posing a survival challenge to many species of seabird, particularly the albatross. It indicated that CCAMLR scientists estimated in 1997 that illegal fishing vessels alone had killed over 100,000 Southern Ocean seabirds annually. As a result, CCAMLR had adopted conservation measures, such as season limitations and night line settings, in the hope of reducing incidental seabird mortality. It realized, however, that compliance with those measures by legal fisherfolk had been less than 100 per cent, while illegal fishing vessels had killed many more seabirds than the legal vessels since the former did not abide by the rules to reduce seabird by-catch in any way whatsoever.

182. In this connection, Greenpeace had found that the underlying causes of the massive toll of seabird deaths were: (a) high prices resulting from declining stocks of commercially valuable species, coupled with increased global demand for such species; (b) overcapacity in the

industrialized fishing vessel sector and growing fishing power linked to increasingly sophisticated fishing technology; (c) increasing investment in new vessel construction spurred by government subsidies supporting fleet migration to distant waters; (d) lack of political will and commitment by Governments to enforce precautionary management regimes and strict conservation to protect marine biodiversity; and (e) inadequate global trade regimes that had failed to provide disincentives to, and had even supported, the international trade in overfished species and/or species caught in fisheries that had threatened the survival of other marine species, such as seabirds.

183. Greenpeace also pointed out that the increase in the catch size and technical capacity of both the legal and illegal fishing fleets worldwide, of all gear types and in all areas, had grave consequences not only for the target fish stocks, but also, as a result of by-catch, for numerous other marine species.

Question 2: Identification of fish caught through IUU fishing activities and the areas (EEZ or high seas) where they are most commonly or heavily caught

184. **WWF**, in its contributions to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 105-106 and 145), stated that it had been especially concerned over two issues: unauthorized fishing by distant-water fleets in the waters of developing countries and rampant, unauthorized fishing for Patagonian toothfish in the Southern Ocean. New information had revealed widespread unauthorized fishing by distant-water fleets from industrialized countries in the waters of developing countries which were ill-equipped to monitor and control fishing by sophisticated distant-water fleets in areas under their jurisdiction.

185. As an example of this, in 1995, more than 96 per cent of all fishing in Mauritania's exclusive economic zone was conducted by distant-water fleets and the very limited surveillance and enforcement capability of Mauritania had resulted in widespread overfishing. In addition, those fleets had continuously violated areas reserved for small-scale fisheries, had not always paid any fine imposed on them and, according to some studies, had paid only 33 per cent of the required fees to the Mauritanian Government.

186. WWF further expressed the view that it was particularly concerned with the widespread, uncontrolled and often illegal fishing for Patagonian toothfish in the Southern Ocean, fearing that the toothfish was being very heavily exploited before researchers had fully researched the fundamentals of its biology and life history.

187. **WWF and TRAFFIC**, in a report³² of 15 November 1999 on swordfish and bluefin tuna fisheries under ICCAT's management, state that Spain and other fishing nations (including France, Italy, Spain and Morocco) continue to catch undersized swordfish and bluefin tuna in breach of international law. According to the report, surveys by TRAFFIC at Spanish landing sites showed that 83% of bluefin tuna landed from the Mediterranean and over half of that landed from the eastern Atlantic were below the minimum size limits set by ICCAT to protect fish stocks. More than one third of the swordfish caught in the north Atlantic were smaller than the allowed size limits. ICCAT limits do not apply to swordfish in the Mediterranean, but 86% of those observed were below the minimum size set elsewhere. (ICCAT took decisions in November 1999 that are aimed at improving the situation of stocks of Atlantic swordfish).³³

188. The report also states that the swordfish long-lining is contributing to a considerable amount of shark by-catch. Investigators found that two-thirds of the observed fish landed from swordfish long-liners were sharks.

³² Source WWF/TRAFFIC media release 15 November 1999. See also detailed report Raymakers, C and Lynham, J, "Slipping the Net: Spain's Compliance with ICCAT Recommendations for Swordfish and Bluefin Tuna", TRAFFIC International, 1999.

³³ In these decisions, ICCAT recommended (a) that it establish a rebuilding program for north Atlantic swordfish, with detailed allocations of the overall TAC and (b) the development of time and area closures for north and south Atlantic swordfish and gear modifications to reduce the catch and fishing mortality of undersized swordfish.

189. The report attributes the taking of undersized fish to over-capacity, fuelled by subsidies. It calls on ICCAT to set strict annual quotas for each fishing nation in the Atlantic and in the Mediterranean, to penalize countries that fail to comply with ICCAT's rules and to set up programs to record by-catch. Nations controlling these fisheries are urged to step up their efforts to provide the legal measures and enforcement effort required to ensure compliance with ICCAT's conservation rules.

190. **Greenpeace**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 147), reported that, as fisheries throughout the world were becoming depleted owing to the overcapacity of the world's large-scale industrialized fishing fleets, more and more fishing companies were turning to the Southern Ocean, the area around Antarctica, the southern cone of Latin America, the sub-Antarctic islands of South Africa, Australia, New Zealand, France and international waters to fish illegally for Patagonian toothfish, in contravention of the legal allowable catch limits set by CCAMLR.

191. The **Coalition for Fair Fisheries Agreements** (CFFA), in a set of reports provided to FAO in December 1999³⁴, notes the increasing pressure on artisanal fisheries in many African coastal States (and on the fisheries of Lake Victoria) and the cross-border impacts that fishery agreement renewal negotiations can have. In particular, the CFFA reports concerns that if the European Union's fishery agreement with Morocco (due for renewal at the end of 1999) is not promptly renewed, the more than 120 cephalopod vessels that fish in Moroccan waters under that agreement may greatly increase the level of IUU fishing in neighbouring Mauritanian waters. CFFA also reports that more than two thirds of the industrial catch of shrimp within Malagasy waters is taken illegally within the two-mile coastal zone that is by Malagasy law restricted to artisanal fishers. According to CFFA, this activity is causing pollution through by-catch dumping, destruction of artisanal gear and other conflicts with artisanal fishers and increased pressure on related, non-target species. CFFA further reports on the potential for wide scale illegal fishing in South African waters, due *inter alia* to the scope for international fishery access negotiations to lead to the denial of sufficient new fishing opportunities to domestic fishers.

Question 3: Major landing ports or transboarding points for products of IUU fishing activities

192. **Greenpeace**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 147), reported that, during the past three years there had been an increasing number of illegal and unregulated fisheries of Patagonian toothfish in response to high prices offered in Japan and the United States, the main markets for toothfish. Fishing companies, *inter alia*, from Japan, Norway, Portugal, South Africa, Argentina, Namibia, the United States, Belize, Malta, Spain, Singapore, Honduras, Guinea-Bissau, Panama, Vanuatu, Chile, the Faroe Islands and Taiwan Province of China were involved in the fishery. Greenpeace also reported that Mauritius, South Africa, Namibia, Argentina and Chile had provided convenient trans-shipment ports for the illegal fishing fleets.

Question 5: Other planned/envisaged actions/options to curb IUU fishing

193. **WWF**, in its contributions to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 145), stated that in view of the fact that CCAMLR had been unable to deal effectively with the problem of widespread, uncontrolled and often illegal fishing for Patagonian toothfish in the Southern Ocean, WWF believed that the Secretary-General should bring the situation to the attention of the General Assembly with a view to adopting a resolution calling upon all States to take all measures necessary to prevent their vessels from fishing illegally for Patagonian toothfish in the Southern Ocean.

194. **Greenpeace**, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 149), stated that, given the need for urgent action and, in its view, the lack of political will by CCAMLR members, it had proposed a number of practical measures to

³⁴ Further information may be obtained from CFFA, Rue du Midi 165, 1000 Brussels, Belgium, email: giltep@skypro.be

respond to the illegal fishing crisis, including: (a) apprehending the violators; (b) increasing the penalties for illegal fishing; (c) use of satellite data to identify and track a vessel that had fished illegally; (d) use of mandatory vessel monitoring systems; (e) port controls; (f) market controls; and (g) better international management regimes.

195. **The International Transport Worker's Federation, the All Japan Seamen's Union and Greenpeace**, on 21 October 1999 agreed³⁵ *inter alia* to work together and co-operate on the following:

- the elimination of the open register system in both the fisheries sector and merchant marine. The open register system not only amounts to a negation of international law but is also incompatible with the concept of sustainable development. In this context the three organisations re-affirmed the joint trade union/Greenpeace International submission to the 7th session of the United Nations Commission on Sustainable Development;
- they re-affirmed their commitment to the FAO Code of Conduct and called on all governments and other entities involved in the fishing industry to give full and complete effect to all the provisions;
- the organisations also called on the international community to ratify and bring into force the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. It was agreed that the speedy entry into force of the FAO Compliance Agreement would provide a useful tool for combating illegal, unregulated and unreported fishing. The organisations also called for all states to ratify the United Nations Agreement for the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;
- the organisations welcomed the efforts undertaken by Japan to move to responsible fisheries and to combat the open register fisheries problem and called on other States to follow Japan's lead. They also called on the government of Japan and the international community to take additional measures so as to eliminate illegal, unreported, unregulated and open register fishing; and
- the organisations strongly endorsed a resolution adopted in September 1999 by the Japanese Tuna Federation calling on all those involved in the tuna market to refrain from buying, selling or dealing with open register caught tuna. They also specifically agreed to request that all Japanese trading companies including Mitsubishi Corporation declare that they will not deal in tuna caught by open register fishing vessels and actively co-operate in the elimination of the open register system. (In December 1999, Mitsubishi Corporation announced it had decided not to import such tuna in future – see earlier report in this review).

Question 6: Suggestions on how IUU fishing might be addressed at the global level

196. **WWF**, in view of the concerns it has expressed over unauthorised fishing by distant water fleets in the waters of developing countries and rampant unauthorised fishing for Patagonian toothfish in the Southern Ocean, in its contribution to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraph 107), recommended that the Secretary-General urge the General Assembly to call upon FAO or other competent bodies to develop a code of conduct for distant-water fishing fleets that would address some of the most egregious of these problems, given the fact that neither the Code of Conduct for Responsible Fisheries nor the UN Fish Stocks Agreement had dealt comprehensively with the abuses of local authority and indigenous fishery resources by distant-water fleets.

197. **Greenpeace**, in its contributions to the 1998 report of the Secretary-General of the United Nations (A/53/473, paragraphs 204 and 232-240)³⁶, concurred with the opinion expressed by FAO in

³⁵ Source: Agreed Statement of these organizations, issued 21 October 1999, Tokyo

³⁶ Greenpeace has provided detailed information and data in relation to its concerns about excess fishing capacity and on the link it believes exists between IUU fishing and the failure of vessels flagged to open register countries to meet their international fisheries management obligations. See in particular, "Submission to the UN FAO Consultation on the Management of Excess Fishing Capacity", Greenpeace International, 26-30 October 1998; and "Pirate Fishing: The Global Threat of Flag of Convenience (FOC) Fishing Vessels", Greenpeace International, May 1999.

a previous report to the Secretary-General, that a reduction of the world's excess fishing efforts on marine fish was the one action that would provide the greatest improvements in the situation of by-catch and discards in certain fisheries. Without such control, Greenpeace felt that other solutions to the by-catch and discard problem would be less effective and real success in efforts towards improved management of the ocean's resources would be more difficult to attain.

198. According to Greenpeace, despite numerous global calls in the 1990s to reduce fishing capacity, those nations that needed to act urgently to reduce their fishing fleets had failed to do so. According to a study Greenpeace had commissioned in 1997 entitled "*Assessment of the World's Fishing Fleet 1991–1997*", a total of 1,654 fishing vessels had been added to the world's fleet from 1991 to 1996, and with orders for 244 new vessels of over 100 gross tonnes in 1997, it was convinced that the industry was returning to the trend of constructing fishing vessels with large tonnage. In this connection, Greenpeace pointed out that roughly 82 per cent of the new additions to the world's fishing fleet in the period 1991–1995 were made by just 14 States or entities, of which four (Japan, European Union, Honduras and Russian Federation) accounted for 53 per cent. Fifteen per cent of the new additions belonged to four countries (Honduras, Liberia, Panama and Cyprus) offering open registers.

199. According to Greenpeace's study, new fishing vessel construction trends had shown that more vessels were being built with technology for fishing either for large amounts of relatively low-valued species or for widely distributed species at depths that were previously technologically and economically unattainable. Moreover, the vessels' fishing power had also been increasing: a factory trawler built in 1995 would have two and half times the fishing power of a similar-sized factory trawler built in 1980, and was provided with more advanced fishing technology.

200. Greenpeace's calculations had shown that, while the world's fishing fleet had increased by 3 per cent in terms of tonnage between 1992 and 1997, it had actually increased by 22 per cent in terms of potential fishing capacity through new additions to the fleet and refits. Such a substantial increase in the industrialized fishing fleet in just five years represented a blatant rejection of common-sense global calls for a reduction in fishing effort in order to relieve fishing pressure on overexploited stocks and help their recovery. To achieve this goal, Greenpeace had recommended a 50 per cent reduction in the current size of the industrialized fleet.

201. In addition, Greenpeace has found that of the 3.5 million fishing vessels estimated by FAO to be fishing worldwide, only 35,000, or 1 per cent of that number, were classified as large-scale, industrialized vessels. These were responsible for the greater part of the landed catch of the world's marine fisheries and were the main contributors to the global annual average of 28 million tons of discarded by-catch.

202. Greenpeace thus suggested that, in striving for the recovery of world fisheries and the establishment of ecologically responsible fishing, the Governments of the chief marine fisheries countries should opt for cutting fishing effort in the industrial sector rather than in small-scale, community-based fisheries, since industrialized fleets were involved in unregulated and illegal fishing on the high seas, especially in areas under the national jurisdiction of developing countries, they benefited from government subsidies, and generally did not contribute to food security in local communities. The small-scale, community-based fisheries tended to be less wasteful and more efficient in terms of resource use, employed more people and created less by-catch/discards by bringing ashore all catch for consumption by the families of the fisherfolk as well as other members of their communities.

203. Greenpeace was therefore seeking a substantial transformation from fisheries production dominated by large-scale, capital-intensive, destructive fishing methods to smaller-scale, community-based, labour-intensive fisheries using ecologically responsible, selective fishing technology and environmentally sound practices. It believed that fisheries ought to be prioritized to provide for essential nutritional and livelihood needs, particularly of those communities that were traditionally dependent on access to adjacent fisheries resources. It added that industrial fisheries for fishmeal and oil production should be progressively transformed to fisheries for human consumption.

204. Greenpeace called also upon the Governments of fishing nations to cut the numbers and capacity of large-scale fishing fleets by at least half by 2005 through: (a) elimination of government subsidies to industrialized fishing vessels and fleets; (b) imposition of a global moratorium on new industrialized fishing vessel construction; (c) establishment or enhancement of fishing vessel decommissioning schemes; (d) elimination of reflagging and flag-of-convenience fishing vessels; (e) ratification and implementation of the UN Fish Stocks Agreement; and (f) adoption and application of the Greenpeace Principles for Ecologically Responsible Fisheries, including strict application of the precautionary approach to fisheries management.

205. The Greenpeace Principles advocated “low-impact fisheries”, with the objective of shifting fisheries management from maximizing short-term profits to minimizing environmental impacts, especially the risk of irreversible harm to fish stocks, marine wildlife and marine ecosystems. In this connection, reducing the intensity of fishing effort was paramount so that fish stocks could be maintained at much higher levels of abundance. Additionally, urgent measures should be implemented to reduce fishing capacity, and fishing efforts were to be deployed to levels in balance with the limited fisheries resources, particularly in the sector of large-scale, industrialized fishing fleets. To achieve this, Governments must eliminate all forms of subsidies and other aid that supported the expansion of fishing capacity, over-capitalization or the migration of their fishing fleets to distant waters.

206. In a media release of 7 February 2000, commenting on the ITLOS judgement in the “Camouco” case (Panama v France), **Greenpeace** notes that IUU fishing frequently occurs on the high seas where the perpetrators are beyond the reach of any arrest. Greenpeace calls for this “fundamental failure of international law” to be corrected, and suggests that for open register fishing to be stopped governments need to close their ports to open register vessels and their markets to the fish so caught. Greenpeace also calls for the owning or operating of open register fishing vessels to be prohibited.

Annex A

Small Island Developing States and IUU Fishing

1. **Small Island Developing States** (SIDs) have particular concerns and needs with respect to IUU fishing, as outlined in the following section, which in part draws from the Washington meeting referred to in Appendix 2.

Unauthorized fishing in the EEZs of small island developing States

2. SIDs face particular problems with respect to the monitoring of unauthorized fishing³⁷ within their exclusive economic zones (EEZs). This is because the EEZs of these States normally harbour pelagic and other resources of high commercial value, the size of their EEZs are very large relative to their land areas, and SIDs individually have limited resources to monitor fishing activities within their EEZs.

3. Recognizing their individual vulnerability to unauthorized fishing and their individual lack of capacity to address the problem, regional groupings of SIDs in the Caribbean (Organization of East Caribbean States (OECS) and the Caribbean Community (CARICOM)), the Indian Ocean (West Indian Ocean Tuna Organization (WIOTO)) and the South Pacific (FFA) are cooperating in a variety of ways to monitor, control and discourage unauthorized fishing within their respective regions. Initiatives being pursued include regional monitoring, control and surveillance (MCS) programs, the establishment of regional registers of fishing vessels, the requirement for all catches to be transhipped in ports, and the establishment of comprehensive observer programs.

4. Unauthorized fishing in the EEZs of SIDs in the Caribbean region is problematic. It has been reported by OECS that unauthorized fishing in the EEZs of OECS member States is common. Recently, poachers have been targeting both pelagic and high-value inshore (reef and bank demersal) resources which are already fully or over-exploited. The OECS MCS program is geared to reducing unauthorized fishing in the region.³⁸

5. Information concerning the incidence of unauthorized fishing in the EEZs of SIDs in the Indian Ocean is not readily available. However, since 1981 FAO has provided a significant amount of MCS technical assistance, executed through national and regional programs, in the Indian Ocean.³⁹ The level of assistance provided by FAO and other donors indicates that a problem of unauthorized fishing of some considerable magnitude exists. This situation was confirmed by the representative of the Maldives in November 1993 when he told a symposium convened under the auspices of the Indo-Pacific Fishery Commission (IPFC, presently known as APFIC) that "Illegal foreign fishing in the outer reaches of the Maldives' EEZ by industrial fleets operating in the Indian Ocean is increasing, creating problems due to the country's limited enforcement capacity."⁴⁰

6. South Pacific States (e.g. Kiribati and Papua New Guinea⁴¹) have identified unauthorized fishing in their region by Asian distant-water fishing nation fleets as being a major obstacle to rational fisheries conservation and management. Moreover, in December 1994, at the Multilateral High-level Conference on South Pacific Tuna Fisheries, it was pointed out that "there is ample evidence that foreign fishermen have systematically contravened coastal State regulations for many years and that, because of the high cost of surveillance, it has been very easy for them to escape detection."⁴²

³⁷ Unauthorized fishing is only one aspect of the problem faced by SIDS with respect to the operation of some distant-water fishing nation (DWFN) fleets within SIDS' EEZs. Equally problematic and significant from a fisheries conservation and management point of view is the widespread non-reporting and under-reporting of fish catches.

³⁸ Robin, D.V. and Murray, P.A., "Profile of fisheries enforcement in the Organization of Eastern Caribbean States (OECS) Sub-region", Global Fisheries Enforcement Workshop. Washington DC, 1994, p.1.

³⁹ For a summary of this technical assistance, and assistance provided to other regions of the world, see Doullman, David J., 1994. "Technical assistance in fisheries monitoring, control and surveillance: A historical perspective of FAO's role." FAO Fisheries Circular No. 882. FAO. Rome. 19p.

⁴⁰ "Indo-Pacific Fishery Commission: Socio-economic Issues in Coastal Fisheries Management", FAO, Bangkok, 1994 p.5.

⁴¹ See papers presented by the representatives of Kiribati and Papua New Guinea at the Global Fisheries Enforcement Workshop, Washington DC. 25-27 October 1994.

⁴² Forum Fisheries Agency, 1995, "Record of the Proceedings of the Multilateral High-Level Conference on South Pacific

In response to this situation regional MCS cooperation in the South Pacific has reached an advanced level, and a Treaty on Cooperation in Fisheries Surveillance and Law Enforcement (the Niue Treaty, signed in July 1992 by the FFA member States) was developed to give effect to this cooperation.

7. The October 1994 Washington meeting concluded, *inter-alia*, that unauthorized fishing in the EEZs of coastal States was common in most areas of the world and that the incidence of such fishing was not declining. This conclusion is supported by information available concerning unauthorized fishing in the EEZs of SIDs.

Annex B

Information Provided by ISOFISH

1. **ISOFISH**⁴³ is an NGO which has played a particularly active part in reporting alleged cases of IUU fishing for Patagonian Toothfish (*dissostichus eleginoides*) in Antarctic and sub-Antarctic waters and in recommending actions to combat this fishing.
2. The material that follows draws on reports by ISOFISH on specific cases and aspects of IUU fishing. The full reports may be examined by accessing the ISOFISH website. As with most information supplied to FAO in the course of this work, FAO is not in a position either to verify or to deny the accuracy of the ISOFISH reports.

Patagonian Toothfish

3. Patagonian toothfish is a deep sea fish and can be caught at depths between 400 and up to 3500 meters in the Antarctic and sub-Antarctic. The commercial discovery of the suitability of the Patagonian toothfish to substitute for the collapse of market supplies of over-exploited species at prices around US\$10/kg headed, gutted and tailed has not only led to a rash of applications for authorised access to *dissostichus eleginoides* stocks throughout the Southern Ocean but also to an avalanche of illegal and unregulated fishing.
4. This fishing began in the south-west Atlantic Ocean off the coast of Argentina and the Falkland Islands in 1994. During 1996 and 1997, the fishery moved further eastwards via South Georgia, Bouvet Island, Prince Edward, Crozet, Marion, Kerguelen, and the Heard, McDonald and Macquarie Islands. The Patagonian toothfish is currently fished mainly in the South Atlantic and the south Indian Ocean. It is fished in the EEZs of several countries, in areas managed by CCAMLR (and in international waters). Stocks show signs of being overfished in most fishing zones. Several vessels which were granted licenses in the Argentina zone have given up because of the small catches. A similar situation is encountered by the French legal fishing vessels operating within the EEZ of Kerguelen and Crozet Islands. Fish landed from areas around Prince Edward dropped in size from 80-90 cm in 1996 to 60cm in 1997. The same applies to fish caught around Kerguelen and Crozet.
5. Illegal catch rates, probably in excess of 100,000 tonnes of Patagonian toothfish in the last year, have been so high that market prices have dropped markedly at enormous cost to the legal operators catching a mere 10,500 tonnes in regulated CCAMLR fisheries. At this level of unlicensed over-fishing, regulated fish stocks of *D. eleginoides* can be expected to start crashing to commercial extinction within three to five years.
6. The following specific information is available from the ISOFISH website:

Media Release on The Involvement of Mauritius in Patagonian Toothfish from Illegal and Unregulated Long-line Fishing in the Southern Ocean, and What Might be Done About it. (ISOFISH Occasional Report No.1. Initial report released 2 April 1998. Current edition, August 1998)

- According to this report, Mauritius is the 'pirate capital' of illegal fishing in the Southern Ocean;
- it is estimated that the unlicensed fishing effort is almost ten times that of the licenced operators;
- while Mauritius may be prominent in the trade in whole, frozen Patagonian toothfish, it is estimated that some 40,000 tonnes of toothfish from unlicensed fishing in the Southern Ocean are being processed in southern South America for on-selling in Europe and North

⁴³ ISOFISH is the International Southern Oceans Long-line Fisheries Information Clearing House, a non-government joint venture between conservation organisations and licensed fishing companies. ISOFISH was formed following the 1997 meetings of CCAMLR. ISOFISH aims to collect, collate, analyse, verify and disseminate data, information and reports on long-line fishing in the southern oceans. It believes this will assist governments in preventing IUU fishing and the incidental mortality of albatrosses and other seabirds in these fisheries. ISOFISH has a website at www.isofish.org.au

- America, with a further 20,000 tonnes a year being processed and consumed in Japan;
- according to ISOFISH, albatross populations as well as commercial fisheries are being threatened by this illegal fishing; and
 - Mauritius is the principal trans-shipment point for the trade in high quality IQF (individually quick frozen) Patagonian toothfish to the sashimi markets in Japan. The fishing for, and trading in, these highly valuable fish is dominated by companies and crews from Norway and Denmark - especially the Faeroe Islands.

Media Release on The Vikings: The Involvement of Norwegian Fishermen in Illegal and Unregulated Long-line Fishing for Patagonian Toothfish in the Southern Ocean (ISOFISH Occasional Report No.3, released 20 October 1998)

- This report identifies three principal Norwegian groups involved in toothfish poaching operations in the Southern Ocean (see the ISOFISH website for specific details);
- ISOFISH has also proposed some specific measures which it believes the Norwegian Government should take to stop poaching and support for poachers by companies and individuals subject to its jurisdiction, including:
 - withdraw public money from all companies associated with those in operational control of past or present toothfish poaching operations;
 - publish a blacklist of Norwegian individuals known to be associated with fish poaching operations anywhere in the world (especially in the CCAMLR area); and
 - demand that Norwegian banks and other investors immediately conduct internal inquiries to identify and then terminate any and all support for and involvement with poachers identified on the blacklist.
- while commending the Norwegian Government for having introduced new regulations to allow it to control the activities of Norwegians on Norwegian ships anywhere in the world, ISOFISH is urging them to require all Norwegian crew on foreign flagged fishing vessels to be licensed by Norway;
- ISOFISH is urging all coastal States to immediately review their Admiralty Rules' implementing legislation to ensure that it cannot be used by poachers to rescue vessels arrested under their national fisheries laws;
- ISOFISH believes the lack of domestic criminal sanctions against poachers by fishing nations, is allowing clearly identified poachers to walk free at home despite their having ordered illegal acts within the jurisdiction of friendly countries; and
- ISOFISH is also urging all concerned governments to introduce new domestic legislation which makes it a serious criminal offence for any of their nationals to knowingly order, benefit from, or engage in fishing activities in breach of or in defiance of the relevant laws and regulations of other countries and competent international organisations.

Media Release on The Chilean Fishing Industry: its Involvement in and Connections to the Illegal, Unreported and Unregulated Exploitation of Patagonian toothfish in the Southern Ocean (ISOFISH Occasional Report No.2, released 31 March 1999)

- The report identifies Japan as the principal market for toothfish and the Japanese fish trader, Maruha, as the principle channel for trade in illegally caught toothfish;
- the report claims that most of the companies operating out of Chile are owned and controlled by Spanish interests; and
- the report also includes over 16 recommendations for combating illegal fishing for Patagonian toothfish.

ISOFISH report, 18 May 1999 - South African toothfish poacher exposed in court⁴⁴

- Evidence given at an inquiry in South Africa into the sinking of the Sudurhavid has revealed details of a toothfish poacher and the harsh conditions of her crew;

⁴⁴ Source: Independent Newspapers, South Africa, 1999.

- fishing at night with no lights, trans-shipping fish from one ship to another and always being on the lookout for a gunboat were the tasks on the Sudurhavid, during illegal operations in the south Atlantic and around South Georgia and Kergeulen Island, from which fish were reportedly landed in Namibia, Cape Town and Mauritius.

ISOFISH report, 7 July 1999: Australians find unregulated long-liners fishing inside the CCAMLR Area - Again!

- The Southern Champion, an Australian trawler licenced to catch toothfish by the Australian government and CCAMLR, sighted two long-liners fishing within the CCAMLR Area just outside the Australian EEZ in defiance of CCAMLR regulations and quotas;
- one of the long-liners was identified as the Puerto Madryn, owned and operated by the Spanish company, Marabal SA; and
- the other long-liner had its markings obscured to prevent identification.

ISOFISH Report, 7 July 1999: Unilateral Introduction of Toothfish Trade Controls now necessary to protect toothfish stocks and albatross populations in the Southern Ocean

- ISOFISH released its proposals for blacklisting long-liners engaged in or suspected of IUU fishing for toothfish, including specific proposals for criteria to be used to identify vessels for blacklisting (see the ISOFISH website for details).

ISOFISH Criteria for Discriminating Against Toothfish from Unlicensed Sources

- To be effective in stopping the toothfish poachers, States exercising their flag, coastal, port and/or market State responsibilities must ensure that they target not just the vessels whose fishing is not properly licenced and authorised but also the individuals and companies which control them, trade in the toothfish they catch, and benefit from the eventual sales of such fish;
- the key to an effective trade control regime is acceptance of the assumption underlying US regulations - that all toothfish should be assumed to have been caught from within the CCAMLR Area unless the catcher can prove to the contrary.

7. ISOFISH has also published on its website information on the following proposals:

- Threshold tests for 'blacklisting' by port and market States to withhold or withdraw permits and/or licences to catch, land, export or import toothfish;
- proposals for Blacklist Part I - the Ugly Boats: Vessels which have been 'Sighted';
- Proposals for Blacklist Part II - the Bad Boats, Companies & Individuals which have been 'Warned Off';
- Proposals for The 'Good Boats'; and
- Proposals for Other Boats