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**EXPERT CONSULTATION ON FISHING VESSELS OPERATING
UNDER OPEN REGISTRIES AND THEIR IMPACT ON ILLEGAL,
UNREPORTED AND UNREGULATED FISHING**

**Southeast Fisheries Science Centre
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Miami, Florida, USA**

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Prospectus

Introduction

The international community has witnessed a growing incidence of fishing activity that does not respect applicable rules and principles established in the relevant laws and regulations or international instruments. Such illegal, unreported and unregulated (IUU) fishing occurs in virtually all capture fisheries, whether they are conducted within areas under national jurisdiction or on the high seas. IUU fishing poses a direct and significant threat to effective conservation and management of many fish stocks, causing multiple adverse consequences for fisheries and for the people who depend on them in the pursuit of their legitimate livelihoods.

Since the late 1990s, international fora have issued calls to combat IUU fishing.¹ The FAO Committee on Fisheries (COFI), at its Twenty-third Session in 1999, considered the problem to be a matter of high priority. Information presented to COFI at that time indicated that IUU fishing, particularly by fishing vessels flying “flags of convenience,” was a growing threat to the achievement of sustainable fisheries. In the face of such information, COFI recommended the elaboration of an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). Over the course of the next two years, a significant effort unfolded, which culminated in the adoption of the IPOA-IUU in 2001. Like the other IPOAs adopted by COFI in 1999,² the IPOA-IUU is voluntary and has been elaborated within the framework of the 1995 Code of Conduct for Responsible Fisheries.

The IPOA-IUU contains a large and diverse set of measures for States to take to combat IUU fishing, individually and in collaboration with other States. Some of these measures are designed

¹ E.g. the Commission on Sustainable Development; the Asia-Pacific Economic Cooperation Fisheries Working Group; the United Nations General Assembly; the IMO Sub-Committee on Flag State Implementation; the IMO Marine Environment Protection Committee; the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea; the World Summit on Sustainable Development.

² These are: the IPOA for Reducing Incidental Catch of Seabirds in Longline Fisheries; the IPOA for the Conservation and Management of Sharks; and the IPOA for the Management of Fishing Capacity.

for use by all States; others are tailored for application by coastal States,³ port States⁴ and flag States.⁵

International law places particular emphasis on the role of flag States in controlling fishing activities, no matter where their vessels operate. Thus, flag States may generally be said to have the primary responsibility for preventing, deterring and eliminating IUU fishing. The extent of IUU fishing in the world today indicates that some flag States are not fulfilling this responsibility adequately. Indeed, lack of effective flag State control has been cited as a primary cause of IUU fishing.⁶ Inaction with respect to weak flag State control of fishing vessel activities can only exacerbate IUU fishing.

States operate open vessel registries for a variety of reasons, including to generate revenue for economic development. The challenge is to find ways for such States to achieve their developmental goals while also fulfilling their responsibilities as flag States.

This consultation intends to provide a collaborative forum for Experts from countries operating open registries for fishing vessels and technical resource persons concerned with issues of flag State control of fishing activities to: (1) share experiences and views; and (2) consider possible ways to encourage governments to resolve more effectively problems of IUU fishing that are linked to the operation of open fishing vessel registries.

Objectives

The first principal objective of the Expert Consultation is to raise awareness amongst flag States about IUU fishing problems associated with the operation of open registries for fishing vessels.

The second principal objective is to identify modalities through which flag States can give effect to measures to prevent, deter and eliminate IUU fishing. These may involve both unilateral measures and multilateral arrangements. Cooperation with other States may in turn involve implementation of relevant international instruments and participation in regional fisheries management organizations (RFMOs).

Focus

The focus of the Expert Consultation will be on those States currently operating open registries for fishing vessels as well as States that have recently taken steps to modify vessel registration procedures with a view towards discouraging the incidence of IUU fishing by vessels flying their flags. The Consultation will review factors underlying the use of open registers for fishing vessels and the nature and scope of linkages between their operation and IUU fishing. The Consultation will further review the range of tools set forth in the IPOA-IUU that can assist flag States in strengthening control over fishing vessels flying their flag in order to deal more effectively with IUU fishing in its various manifestations and explore possible options for the application of these tools.

Many of these tools are already in use by at least some States, acting alone or in cooperation with other States, including through RFMOs. Not all tools work or are appropriate in all situations.

³ The term "coastal State" is generally understood to mean a State bordering a marine area.

⁴ The term "port State" is generally understood to mean a State in whose port a vessel is seeking or has obtained access. Port State measures against IUU fishing were recently the focus of an FAO Expert Consultation. See: "Report of the Expert Consultation to review Port State measures to combat illegal, unreported and unregulated fishing." Rome, 4-6 November 2002. *FAO Fisheries Report*. No. 692. Rome, FAO. 2002. 22p. Also see: Lobach, Terje. 2003. "Port State control of fishing vessels." FAO Fisheries Circular No. 987. FAO. Rome. 21p.

⁵ The term "flag State" is generally understood to mean a State in whose territory a vessel is registered and whose flag a vessel is entitled to fly.

⁶ See "A Global Review of Illegal, Unreported and Unregulated (IUU) Fishing," collated and edited by Kevin Bray.

However, States should be able to find in the IPOA-IUU an appropriate tool, or combination of tools, to fit their circumstance and, in so doing, reduce the incidence of IUU fishing.

Following the IPOA-IUU guidelines, the Expert Consultation will consider the following main categories of such tools:

- Fishing Vessel Registration;
- Chartering Arrangements;
- Record of Fishing Vessels;
- Authorization to Fish;
- Control over Transport and Support Vessels; and
- Other Control Measures.

Structure of the Expert Consultation

The Expert Consultation will take cognizance of the effects of IUU fishing on global fishery resources and in turn draw upon lessons that might be learned from the experiences of flag States that have already implemented tighter control over the activities of their fishing vessels.

Several FAO technical experts will be invited to present background papers on:

- A global assessment of the extent of IUU fishing;
- Fishing vessels operating under open registries and the exercise of flag State responsibility;⁷
- Standards relating to flag State responsibility over fishing vessels contained in recent international instruments (the IPOA-IUU, the 1995 FAO Code of Conduct for Responsible Fisheries, the 1995 UN Fish Stocks Agreement, the 1993 FAO Compliance Agreement, etc.);
- Information concerning the problems being created by some vessels registered in States that do not exercise effective flag State control over the activities of their fishing activities; and
- The International Network for the Cooperation and Coordination of Fisheries-related Monitoring, Control and Surveillance Activities (International MCS Network) and its role in enhancing and assisting more effective flag State control over fishing vessels.

Presentations will also be invited from Experts from selected countries that operate open registries.

In an interactive way, following the background presentations, Experts will consider modalities for encouraging and assisting governments to fulfill their responsibilities as flag States to combat IUU fishing. In this fashion the Consultation will serve as an open, technical and collaborative forum where options and their implications for achieving more effective flag State control so as to reduce the incidence of IUU fishing can be reviewed in a frank and constructive manner. States, on an individual, bilateral or multilateral basis, could, in turn, take into consideration the results of the Expert Consultation, propose possible follow up action and act as they deem appropriate. Documents for the Consultation will be distributed electronically in advance, and will include a comprehensive set of basic reference materials.

⁷ See: Swan, Judith. 2002. "Fishing vessels operating under open registries and the exercise of flag State responsibilities: Information and options". FAO Fisheries Circular No. 980. FAO. Rome. 65p.

Outcomes

A report will be prepared on the Consultation proceedings, including the options and recommendations considered and agreed by the Experts. The report will be made available to all FAO Members, RFMOs, and other interested international agencies. The report will also be provided to an FAO Technical Consultation on IUU fishing and fleet capacity in June 2004 and to the Twenty-sixth Session of the Committee on Fisheries in 2005.

Furthermore, in addition to offering Experts a forum to share their experiences and concerns, the Consultation intends:

- To provide Experts with an opportunity to propose appropriate follow-up actions, including through the development of a specific project designed to help open registry States achieve compliance with international standards of flag State actions to combat IUU fishing;
- Through the awareness and information it generates, to spur work on the implementation of national plans of action on IUU fishing, as called for in the IPOA-IUU; and
- To allow Experts the opportunity to become familiar with the work of the International MCS Network and the merits of flag State cooperation through participation in the Network.

Participation

Experts will come from countries operating open registries for fishing vessels including those countries that have recently taken measures towards achieving compliance with international standards of flag State actions to discourage the incidence of IUU fishing. Ideally, the Experts will have fisheries or international policy experience. In addition, there will be a limited number of FAO technical resource persons.

Languages

The Consultation will be conducted in English and Spanish.

Organizational arrangements

The Expert Consultation will be convened by FAO with the support of the FishCode Programme of the Fisheries Department, in cooperation with the Government of the United States of America.

The Consultation will be held at Southeast Fisheries Science Centre (National Marine Fisheries Service, National Oceanic and Atmospheric Administration) in Miami, Florida, USA, from 23 through 25 September 2003. Participation is by invitation only. A Provisional Agenda is shown as Annex 1 and a Provisional List of Documents is shown as Annex 2.

Consultation Secretariat/Contact persons

For further information please see <http://www.fao.org/fi/meetings/> or contact:

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