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Organización  
de las  
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Unidas  
para la  
Agricultura  
y la  
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## REGIONAL COMMISSION FOR FISHERIES (RECOFI)

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## NATIONAL AND REGIONAL MEASURES TO ADDRESS ILLEGAL, UNREPORTED AND UNREGULATED FISHING

### SUMMARY

This paper discusses the implications of illegal, unreported and unregulated (IUU) fishing in the Commission area, focussing particularly on its adverse effects on fisheries management and the need to take concerted national and regional action to combat it. The introduction to the paper provides background information on IUU fishing. Strategic considerations to address IUU fishing are then considered, followed by a discussion of international responses to the problem. The paper then focuses on national measures and the need to promote regional cooperation to fight IUU fishing. Some aspects of FAO's technical cooperation are highlighted while the final section of the paper proposes action by the Commission.

### I. INTRODUCTION

1. Illegal, unreported and unregulated (IUU) fishing is an issue high on the international fisheries agenda. This is because it undermines efforts to manage fisheries on a responsible and sustainable basis. IUU fishing and its impact on target stocks and the environment have been addressed in many recent international meetings, documents and instruments, including United Nations General Assembly (UNGA) resolutions, sessions of the FAO Committee on Fisheries (COFI), FAO Ministerial Meetings on Fisheries and the 2002 World Summit on Sustainable Development (WSSD).

2. IUU fishing presents major challenges for States and regional fisheries management organizations or arrangements (RFMOs). The root cause of IUU fishing is the inability or unwillingness of flag States to exercise effective control over the operations of fishing vessels flying their flags. This lack of control enables IUU fishers to operate with impunity, frequently targeting fisheries in developing countries where fisheries management is most precarious and monitoring, control and surveillance (MCS) programmes weakest.

3. Driven by economic gain, IUU fishers do not respect national laws or the provisions of international fisheries instruments that seek to promote sustainability in national and regional fisheries. Their activities weaken measures intended to enhance stock status and the uncertain environment in which many stocks are harvested.<sup>1</sup> A further dimension of IUU fishing, especially in high-value industrial fisheries, is its linkage to international crime syndicates. They are not intimidated by national fisheries administrations, RFMOs and their underpinning MCS programmes and sanctions.

4. IUU fishing, once viewed in many countries as an administrative offence, is increasingly being considered as an environmental crime.<sup>2</sup> This is because IUU fishing involves theft and trespass, both of which contribute to the vulnerability and demise of stocks. Fisheries managers also note that IUU fishing is fundamentally opposed to efforts to redress the effects of overfishing and their unmanaged exploitation.

## II. STRATEGIC CONSIDERATIONS

5. IUU fishing takes many forms and its scope and dimensions vary within and between regions. In general, IUU fishers target high value fisheries where the chances of detection and apprehension are least. It is found in all capture fisheries, irrespective of their scale or location. The IUU fishing problems in inland fisheries are similar to those of marine fisheries (e.g. taking prohibited and undersized species, the use of prohibited gear, fishing in closed areas and seasons, non-declaration of catches, etc.) though the scale of operation is usually significantly different.

6. Effective fisheries conservation and management requires that States embrace policies and enact legislation with a strong focus on long-term sustainability goals. Importantly, the legislation should also provide for sanctions that will act as a deterrent against IUU fishing (e.g. fines in addition to the mandatory confiscation of vessels and catches). Countries that do not have such legislation should review and revise it because a sound and comprehensive legislative framework is a pre-requisite for combating IUU fishing.

7. In fisheries where resources are shared and fleets from more than one country target stocks, cooperative regional management is necessary. RFMOs provide the mechanism for such management by bringing together coastal States and distant water fishing nations (DWFNs). Collectively, RFMO members, *inter alia*, agree on and adopt measures to ensure that resources are not harvested excessively, that precaution and prudence are exercised when information about stocks and the impact of fishing are unavailable or lacking and that ecosystem issues are taken into account when conservation and management decisions are made.

8. In some RFMOs a lack of political will by members to ensure that management measures are implemented has reduced their effectiveness. This situation has also led to IUU fishing, not only by vessels from non-members, but also by vessels belonging to members themselves.

9. A major challenge for all countries is to implement national and regional fisheries management measures designed to improve fisheries governance and, at the same time, to combat IUU fishing. In developing countries a lack of financial and trained human resources constrains implementation. Capacity building is therefore essential in key areas for them to improve their performance.

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<sup>1</sup> The most recent State of World Fisheries and Aquaculture (FAO, 2007) notes that for stocks monitored by FAO about 50 percent of them are fully exploited with no room for expansion; a further 25 percent are underexploited or moderately exploited and could perhaps produce more while the remaining 25 percent are overexploited, depleted or recovering from depletion, yielding less than their maximum potential owing to excess fishing pressure. The report adds that these percentages have been relatively stable for some time and that the wild capture potential from the world's oceans has probably been reached. This situation reinforces calls for greater caution and more effective fisheries management to rebuild depleted stocks and prevent the decline of those stocks being exploited at or near their maximum potential.

<sup>2</sup> Environmental crime is well established and understood with respect to pollution and wildlife, for example, and is subject to national prosecutions and international interventions such as those by Interpol. In fisheries more and more countries and unions (e.g. Australia, Canada, European Union, United Kingdom and United States of America) are regarding IUU fishing as criminal activity, referring to IUU fishing as an environmental crime.

### III. INTERNATIONAL RESPONSES

10. The term “IUU fishing” was used for the first time in 1997 at a meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).<sup>3</sup> By 1999, the terminology was being used widely in FAO reports and papers of, *inter alia*, the International Maritime Organization, the Commission on Sustainable Development and RFMOs. Since 1999 IUU fishing has been also addressed in UNGA resolutions on sustainable fisheries and, in 2006 a separate section of resolution 61/105<sup>4</sup> was devoted to IUU fishing. This action served to underscore the critical nature of IUU fishing.

11. FAO has been at the forefront of international efforts to address IUU fishing. The 1999 FAO Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries<sup>5</sup> states, *inter alia*, that countries would develop a global plan of action to deal effectively with all forms of IUU fishing including fishing vessels flying “flags of convenience”. This Declaration set the stage for action against IUU fishing, providing the impetus and framework for FAO to pursue a step-wise approach for the elaboration of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).<sup>6</sup>

12. The 1999 session of COFI and the FAO Ministerial Meeting on Fisheries that immediately followed COFI gave FAO a clear mandate to develop a voluntary, soft law instrument to combat IUU fishing within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries. Following several expert and technical meetings, the 2001 COFI session adopted the IPOA-IUU by consensus. It was endorsed later by the FAO Council in June 2001.

13. The IPOA-IUU provides States with a set of comprehensive, effective and transparent measures (often referred to as a “toolbox” of measures) to be used directly by them or through RFMOs, to combat IUU fishing. The IPOA-IUU is broad in scope, seeking to address IUU fishing in a holistic and flexible manner.

14. Implementation of the IPOA-IUU focuses primarily on action by different categories of States (all States, flag States, coastal States and port States). They are encouraged to adopt and implement a suite of consistent and mutually reinforcing measures. In addition, the IPOA-IUU foresees action to combat IUU fishing through the use of internationally agreed market-related measures.

15. To support the implementation of the IPOA-IUU, FAO has prepared a technical guideline to provide practical advice on how States should implement the IPOA-IUU in marine capture fisheries. A similar guideline will be published in 2007 on how to implement the IPOA-IUU in inland capture fisheries. To assist in disseminating information about IUU fishing and heighten awareness about its impact on sustainability and governance, FAO has also prepared and disseminated a simple language publication to sensitize small-scale fishers and their fishing communities about IUU fishing.

16. FAO monitors and reports on the implementation of the IPOA-IUU. Monitoring is undertaken biennially within the context of FAO’s reporting to COFI on the implementation of the Code of Conduct. Through a biennial questionnaire FAO solicits information relating to the implementation of the IPOA-IUU

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<sup>3</sup> The term evolved from discussions concerning illegal and/or non CCAMLR-compliant fishing activities by Parties (illegal and unreported) and non-Parties (illegal and unregulated) in the Convention area.

<sup>4</sup> UNGA resolution 61/105 adopted on 8 December 2006 is entitled “Sustainable fisheries, including through the 1995 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, and related instruments”.

<sup>5</sup> Adopted in 1999 by the FAO Ministerial Meeting on Fisheries.

<sup>6</sup> Given the serious nature of IUU fishing and its effects on undermining sustainable and responsible fisheries, FAO Members agreed that IUU fishing should be addressed by the FAO Conference at its Thirty-second Session in November/December 2003. It adopted resolution 6/2003 on 9 December 2003 entitled “Progress Report on Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing”.

from Members, RFMOs and non-government organizations (NGOs). They are also invited to identify future priorities and describe implementation constraints encountered. The analysis of the information is important because it enables FAO to assess progress and difficulties encountered by countries as they implement the Code. The analysis also permits regional comparisons on performance and indicates priorities and development assistance needs so that donors can more effectively channel and target assistance to priority areas identified by countries.

17. The response rate to the FAO Code of Conduct questionnaires from the Near East region is low and there has been a notable decline in reporting since 2000 when the questionnaire was despatched for the first time. In 2006, for example, only four countries (Egypt, Jordan, Oman and Sudan) responded. Commission Members should respond to the questionnaire because a failure to do so prejudices the flow of information from the Near East region to FAO and the international community and stifles assistance that might be provided by FAO and the international community to address implementation problems.

#### **IV. NATIONAL MEASURES**

18. The IPOA-IUU calls on States to develop national plans of action to combat IUU fishing (NPOAs-IUU). They are the cornerstones for national action against IUU fishing. Countries are encouraged to engage in an inclusive process in elaborating their NPOAs-IUU, involving as many stakeholders as possible. This is because many groups, including industry, traders, fishing communities and NGOs, and not only government officials, should be called up to participate in the implementation of the NPOAs-IUU. Moreover, to ensure that they are “living documents”, NPOAs-IUU, after their adoption, should be reviewed periodically. These reviews should enable countries to identify the most cost-effective strategies to increase the effectiveness of their plans and to ensure that they remain relevant and up to date.

19. The IPOA-IUU provides considerable flexibility within its framework for countries to develop their NPOAs-IUU. Countries have taken different approaches and used different models, reflecting their national circumstances and the extent to which they are impacted by IUU fishing.

20. As noted in the IPOA-IUU, the full and effective implementation of international fisheries instruments (e.g. the 1982 UN Convention on the Law of the Sea, the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement) is an important means of improving fisheries governance and combating IUU fishing. The IPOA-IUU urges States to ratify or accept these instruments. However, as Table 1 indicates, there is a low rate of ratifications and acceptances of these international instruments among Commission Members and only one Member has elaborated a NPOA-IUU.

21. As a means of improving fisheries governance in the region, Commission Members should, in tandem with the development of NPOAs-IUU, assess the merits of ratifying and accepting the international instruments in Table 1, if they have not already done so. These instruments are primary building blocks for improved sustainability in fisheries.

#### **V. REGIONAL COOPERATION AND COLLABORATION**

22. Regional cooperation and collaboration is essential to combat IUU fishing. This is because of the sophisticated and highly mobile nature of IUU fishers. Within a region they move quickly from one fishing area to another relying on countries not exchanging information, or being slow to exchange information, concerning the nature and scope of their illicit activities. IUU fishing vessels also move rapidly from one region to another, thus reinforcing the need for enhanced cooperation among RFMOs.

**Table 1: Status of Acceptances/ratifications of Certain International Fisheries Instruments and Development of NPOAs-IUU by Members of the Regional Commission for Fisheries<sup>7</sup>.**

Country	1982 UN Convention <sup>8</sup>	1993 FAO Compliance Agreement <sup>9</sup>	1995 UN Fish Stocks Agreement <sup>10</sup>	NPOA-IUU <sup>11</sup>
Bahrain	Yes	No	No	No
Iran IR	No	No	Yes	No
Iraq	Yes	No	No	No
Kuwait	Yes	No	No	No
Oman	Yes	No	No	Yes
Qatar	Yes	No	No	No
Saudi Arabia	Yes	No	No	No
United Arab Emirates	No	No	No	No
<b>Total/%</b>	<b>6 (75%)</b>	<b>0 (0%)</b>	<b>1 (13%)</b>	<b>1 (13%)</b>

23. The IPOA-IUU provides guidance on how countries should cooperate at the regional level to combat IUU fishing. It urges States to take action to enhance the role of RFMOs so that they can address IUU fishing in a realistic and transparent manner, *inter alia*, by ensuring compliance with, and enforcement of, policies and measures adopted in relation to IUU fishing by RFMOs; giving effect to the duty to cooperate by applying the conservation and management measures adopted by a RFMO, or by adopting measures consistent with those measures, and ensuring that flag vessels do not undermine such measures; seeking to strengthen and develop innovative ways to address IUU fishing through RFMOs<sup>12</sup>; compiling and making available on a timely basis to other RFMOs and FAO information relating to the prevention, deterrence and elimination of IUU fishing; encouraging non-contracting parties with a real interest in the fishery to join RFMOs and to participate fully in their work, and bringing to the attention of another State instances where its flag vessels or nationals have engaged in activities that have affected the stocks subject to its mandate.

24. The Commission provides a logical framework and focal point through which Members can cooperate to combat IUU fishing. In accordance with the thrust and intent of the IPOA-IUU, the Commission may wish to at least adopt a regional statement on IUU fishing or elaborate a regional plan of action.

## VI. TECHNICAL COOPERATION

<sup>7</sup> Data as available at 19 January 2007. Information taken from the UN and FAO websites at the following internet addresses: [www.un.org/Depts/los/reference\\_files/status2006.pdf](http://www.un.org/Depts/los/reference_files/status2006.pdf) and [www.fao.org/figis/servlet/static?xml=CCRF\\_prog.xml&dom=org&xp\\_nav=2.2](http://www.fao.org/figis/servlet/static?xml=CCRF_prog.xml&dom=org&xp_nav=2.2)

<sup>8</sup> The 1982 UN Convention on the Law of the Sea entered into force on 16 November 1994.

<sup>9</sup> The 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas entered into force on 24 April 2003.

<sup>10</sup> The 1995 UN Agreement for the Implementation of the Provisions of the UN 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 entered into force on 11 December 2001.

<sup>11</sup> According to information available to FAO on NPOAs-IUU.

<sup>12</sup> Measures that States might adopt through RFMOs to combat IUU fishing include institutional strengthening; development of compliance measures; mandatory reporting; cooperation in the exchange of information; development and maintenance of records of fishing vessels; using trade information to monitor IUU fishing; MCS, boarding and inspection schemes and observer programmes; market-related measures; definition of circumstances in which vessels are deemed to have engaged in IUU fishing; education and public awareness programmes; development of regional plans of action to combat IUU fishing; examination of fishing vessel chartering arrangements; exchange of information on an annual basis among RFMOs; estimation of the extent, magnitude and character of IUU fishing in an RFMO convention area; and maintenance of records of vessels authorized to fish and records of vessels engaged in IUU fishing.

25. The IPOA-IUU highlights the special requirements of developing countries in terms of their capacity to implement policies and measures to combat IUU fishing. The IPOA-IUU urges FAO and other international agencies to cooperate with developing countries to support training and capacity building and the provision of financial, technical and other forms of development cooperation. It suggests that such assistance might be used to support countries to develop NPOAs-IUU, review and revise national legislation, improve and harmonize fisheries and related data collection, strengthen regional institutions, and strengthen and enhance integrated MCS programmes, including the implementation of satellite monitoring systems.

26. In 2005 FAO conducted a regional workshop on the elaboration of NPOAs-IUU for certain countries of the Near East region.<sup>13</sup> The purpose of the workshop was to assist countries develop national capacity to elaborate their NPOAs-IUU. It addressed issues relating to the Code of Conduct, the IPOA-IUU, the technical guidelines, decision-making about IUU fishing and skills enhancement through the identification of issues relating to NPOAs-IUU.

27. As a workshop exercise and as a means of encouraging wider and deeper discussion on IUU fishing issues in the Near East region, participants informally listed the main IUU fishing problems in their countries and proposed solutions to address them.<sup>14</sup> The main IUU fishing problems identified and the proposed solutions to combat them are listed in Appendix J of the Report of the workshop (see document RECOFI/IV/2007/Inf.12). Demonstrating the universality of IUU fishing and its related issues, the problems and solutions identified in the Near East region Workshop were not significantly different to those identified in workshops in other regions of the world.

28. For cost and logistical reasons the 2005 Cairo IUU fishing workshop could not cater for all countries in the Near East region. Consequently, some Commission Members did not participate. However, given that the IPOA-IUU urges all countries to develop NPOAs-IUU in their fight against IUU fishing, there could be merit, depending on interest by Members and the availability of funding, in conducting an IUU fishing workshop for those Commission Members that did not participate in the Cairo workshop.

## VII. SUGGESTED ACTION BY THE COMMISSION

29. The Commission is invited to consider the nature, scope and intensity of IUU fishing in the Commission area and to propose specific national and regional measures to combat it. Particular attention is drawn to the need for Members to develop national and regional programmes to address IUU fishing. As a first step Members are invited to consider the need to develop and implement NPOAs-IUU as the framework for action against IUU fishing. The Commission is also invited to consider whether a FAO IUU fishing workshop for those Members that did not participate in the 2005 Cairo IUU fishing workshop would be timely and appropriate.

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<sup>13</sup> FAO. 2006. "Report of the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – Certain Countries of the Near East Region". FAO Fisheries Report No 793. FAO. Rome. 57p.

<sup>14</sup> It is stressed that this priority listing was undertaken as a workshop exercise. It has no formal status either at the national or regional levels. However, the listing is instructive in that it gives an indication of the range and diversity of IUU fishing problems in the region.