

NORWAY-FAO EXPERT CONSULTATION ON THE MANAGEMENT OF SHARED FISH STOCKS

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Working Group C: Ensuring implementation and enforcement of fisheries management arrangements for shared stocks

Discussion guide

This discussion guide seeks to highlight some of the issues surrounding the implementation and enforcement of fisheries management measures which the Group may, or may not, wish to consider in the course of its discussions. The guide does not purport to be exhaustive in terms of either its scope or depth. Rather, it serves to promote ideas for discussion that the Group may address.

Introduction

Parties to an arrangement agree on the type of measures to be adopted and implemented for the management of shared stocks. The measures are designed to achieve pre-determined management objectives which may vary from fishery to fishery depending on particular stock needs and circumstances. However, the underlying principle of fisheries management is that measures should seek to ensure that stocks are harvested in a long-term sustainable and responsible manner, taking account of broader ecosystem, social and economic considerations.

Fishers' authorizations (licences) and the number of authorizations issued to harvest shared stocks should:

- reflect the objectives and intent of management, and
- be consistent with the agreed management measures.

If this is not the case management objectives are unlikely to be realized.

Undermining efforts to management shared fish stocks

Activities by unauthorized fishers and fishers that do not abide by the terms and conditions of their authorizations undermine efforts to manage fish stocks. This is likely to lead to the overexploitation of stocks and impairment to efforts to rebuild when stocks are already overexploited.

Illegal, unreported and unregulated (IUU) fishing is an issue high on the international fisheries agenda. Some commentators maintain that it is the major issue confronting fisheries management. This is because the incidence of IUU fishing:

- is widespread in all fisheries and in all oceans;

- is not confined to a small group of vessels, and
- severely handicaps the work of regional fishery management organizations or arrangements (RFMOs) to manage stocks.

IUU fishing is perpetrated by both unauthorized and authorized fishers. Its root cause is a lack of effective flag State control. States operating open registries, and which issue so-called flags of convenience (FOCs), are frequently blamed for IUU fishing. However, such fishing is not confined only to open registry States or unauthorized fishers. The problem is wider. Some RFMOs have demonstrated that IUU fishing is perpetuated by authorized fishers from among their membership.

An International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) has been concluded by the FAO membership. This IPOA seeks to address IUU fishing in a holistic, broad and somewhat novel manner by focussing on the:

- responsibilities of all States;
- flag State responsibilities;
- coastal State measures;
- port State measures, and
- internationally agreed market-related measures.

In addition, the IPOA-IUU gives RFMOs, which are usually in front-line positions with respect to the impact of IUU fishing, a particular role to play in combating IUU fishing.

States and RFMOs should address IUU fishing if their efforts to manage stocks are not to be undermined. Issues that the Group may wish to address could include:

- what steps can be taken to deter IUU fishing by unauthorized fishers? RFMOs and their members can instigate a number of activities. These activities may include contacting flag States with information relating to vessels that are undermining management efforts and request that the vessels desist; make information available publicly on websites etc about the names and flags of vessels involved in IUU fishing, etc. Such initiatives will require the cooperation and goodwill of the flag States whose vessels are fishing and undermining management arrangements.
- what steps can be taken to ensure that authorized fishers adhere to the terms and conditions of their licences to fish? How can sanctions against such fishers and their vessels act more effectively as deterrents against IUU fishing? Sanctions must be severe so that fishers incur a real and substantial economic loss when they have been found engaging in IUU fishing. Penalties such as the loss of the authorization to fish and the forfeiture of the vessel could be considered as options.

An important aspect of deterring IUU fishing is the need to have States implement fully all international binding and voluntary instruments that promote sound and responsible fisheries management. The instruments include the 1982 Convention, the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the IPOA-IUU.

Routine and ongoing monitoring, control and surveillance of fishing activities

A checking or verification process, through monitoring, control and surveillance (MCS), is required to ensure that fishers abide by their authorizations to fish. This process is an integral component of management. MCS seeks to facilitate compliance by fishers. MCS is not intended to penalize or constrain fishers who operate within the terms of their authorizations.

The checking process involves routine and ongoing MCS. It may include a range of activities such as:

- the use of VMS to monitor vessel positions, fishing activities and reported catches;
- the use of vessel registers;
- at sea checks of vessels, logs, and catches by patrol craft;
- at sea inspection of vessels by aircraft (alone or in concert with patrol craft);
- the use of independent and trained observers to assess catches, species composition etc and to generally report on whether fishers are operating according to their authorizations;
- port inspections of vessels, catch onboard vessels and catch offloaded, and
- cooperative or regional MCS arrangements, as used by some RFMOs, including joint and reciprocal enforcement arrangements.

The implementation of MCS programmes is a major challenge. In shared stocks fisheries effective and sustained international cooperation is essential.

The size and sophistication of a MCS programme for the management of shared stocks will depend on a number of issues including the:

- administrative structure in place for management;
- resources (funds and hardware) available to support the programme;
- number of parties involved in the fishery;
- number of fishers;
- number of species and volumes of fish being taken;
- geographic distribution of the stocks being managed;
- geographic distribution of landing points and markets, and
- cost of the programme and who pays for it (possibly through cost-sharing arrangements with industry).

Fisheries administrations should underscore its positive role of MCS in management; it is not intended that MCS should denigrate into a "them" and "us" situation where fishers are placed in an adversarial role with managers.

Responsible fishers generally understand and accept the need for effective fisheries management and part of this understanding entails on appreciation of non-discriminatory and swift enforcement action when it is needed.

Penalties for infringements should have a high degree of equity among parties in a management arrangement and be of such a magnitude as to encourage compliance by fishers. Equity is an important consideration: fishers will be less inclined to comply with their authorizations if fishers from other parties do not face equivalent sanctions.

A further aspect is the need to share information about infringements and penalties imposed as a means of building confidence among parties to an arrangement. This will build confidence among fishers if they know the penalties among parties are roughly equivalent.

Positive thinking: partnerships with industry in fisheries management

Increasingly, fishers and other stakeholders are being called to play a more active role in fisheries management. It is now recognized that in order to promote a higher degree of responsibility and compliance by fishers, they should have a role in decision making.

An underlying tenet of the concept of responsible fisheries is the principle of responsible behaviour by fishers and other stakeholders. Efforts to engender the need to act responsibly and to comply with management measures should be promoted. Fishers should be urged to feel proud in having acted responsibly while fishing and not smart at having beaten the law when they have acted irresponsibly.

Underpinning the philosophy of broader fisher participation in management is the notion that fishers should contribute financially to the costs of management because they are the principal beneficiaries. Contributions should be made to meet some of the management-related research costs (when fishers participate in the determination of research priorities) and fisheries MCS. For situations where fisheries do contribute financially, a higher degree of interest and involvement by industry can be anticipated.

Promoting an inclusive approach to management requires some fundamental changes in the thinking of fishery administrators. Such management serves to discourage confrontation in the management process and has the real possibility of lowering the costs of management. However, it has not found wide acceptance in all countries and has recently been described by a fisheries manager as "... putting the rabbits in charge of the carrot patch ...".

Some of initiatives that might be taken to facilitate greater participation by fishers in management could include:

- seeking input from industry on the priorities for research – with input from fishers it can be anticipated that research priorities will have a sharp applied focus ;
- consultation with scientists, managers and MCS staff concerning research findings, the framing of management measures and options for the most effective approach to the implementation of MCS programmes;
- using fishers' organizations to disseminate information about research, management measures and in particular the rationale underlying such measures, and MCS, and
- seeking contributions from industry to support research and MCS programmes.