

## **Canadian Issues Brief**

### **Flag State Performance – Intersessional Considerations**

---

#### **CONTEXT**

In advance of the next session of the Technical Consultation on Flag State Performance (scheduled for 5-9 March 2012), Canada believes that further discussion and preparation would be beneficial to ensure progress on this important initiative. To that end, this issues brief identifies key areas of focus for an electronic exchange of views. If an intersessional meeting of interested FAO members can be organized in advance of the second session of the Technical Consultation, this might also prove beneficial to the process.

In outlining what we consider to be the key issues for further consideration, we took into account the discussions of the first session of the Technical Consultation, which were held under several headings (objectives of the use of criteria for assessing flag State performance, principles underpinning the criteria, geographic scope of application of the criteria, and the assessment criteria). Thus, this document is based on item #5 of the agreed agenda from May 2011 (attached as Annex A).

In addition, we have also considered the report of the Expert Consultation, the documents prepared in advance of the first session of the Technical Consultation, and the Chairperson's report of the first session of the Technical Consultation. We would welcome views on what elements of these documents are useful, what elements need to be modified, and what elements need to be supplemented by additional documentation, expert advice or research.

#### **KEY ISSUES**

The report of the Expert Consultation provides advice on several issues that emerged in the Technical Consultation. We would welcome views on key issues that might require further work, research or expert advice, including, but not limited to:

- 1) organization of the criteria:
  - Should the behavioral and regulatory criteria be combined?
  - Is it logical and/or desirable to separate the behavioral criteria and regulatory criteria even though this might create perceived duplication?
  - Might the criteria differ depending on the assessment process?

- 2) procedural aspects of assessments (whether self-assessments or international/multilateral assessments):
  - What governments or organizations should undertake assessments?
  - What might the elements of an assessment process be?
  - Might the purpose of the assessment process influence the range of criteria to be considered?
- 3) possible actions to encourage compliance
  - Who can take action to ensure compliance?
  - Does authority to take action already exist under international law, or must it be validated or created?
- 4) overall structure of the document
  - Should the various elements (criteria, assessment processes, actions) be contained in a single document? Or separate documents?
- 5) assistance to developing countries to improve flag State performance
  - What type of assessment would best help developing countries identify areas of priority for capacity building?

## **NEXT STEPS**

We welcome views on how we can best prepare for the second session of the Technical Consultation. Based on input that would be circulated by FAO members (through the FAO website dedicated to the Technical Consultation, or by other means), we will consider developing further documentation for consideration by FAO members as part of the intersessional preparations.

---

**Agenda**

1. Opening of the Session
2. Election of the Chairperson
3. Adoption of the Agenda and arrangements for the Technical Consultation
4. Election of the Vice-Chairperson and designation of the Rapporteur
5. Draft Criteria for assessing flag State performance:
  - Draft Criteria for flag State performance;
  - Assessing flag State performance and possible actions in accordance with international law to encourage compliance; and
  - Assistance to developing countries to improve their performance as flag States.
6. Any other matters
7. Adoption of the Report