

## ESSENTIAL REFERENCES



### INTERNATIONAL INSTRUMENTS

**1982 United UN Convention on the Law of the Sea** Ports are subject to the sovereignty of the coastal State because they are considered as internal waters. Articles 218-220, in the context of marine pollution (Part XIII, Section 5).

**1993 FAO Compliance Agreement** Parties are required to cooperate internationally, including making arrangements regarding the undertaking by port States of investigatory measures as may be considered necessary to establish whether a fishing vessel has been used contrary to the provisions of the Agreement. Article V.

**1995 UN Fish Stocks Agreement** A port State “has the right and the duty” to take certain measures in its ports. These measures include the inspection of documents, fishing gear and catch and, when it has been established that the catch was illegally taken, to prohibit landings and transhipments. Article 23.

**1995 FAO Code of Conduct for Responsible Fisheries** The duties of port states are described and include the adoption of measures necessary to achieve and to assist other States in achieving the objectives of the Code. Article 8 (3).

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**2001 FAO International Plan of Action on Illegal, Unreported and Unregulated Fishing (IPOA-IUU)** States are encouraged to use port State measures, in accordance with international law, to control port access by fishing vessels in order to prevent, deter and eliminate IUU fishing. Measures include ascertaining whether vessels have the necessary authorization to fish and collecting details on the fishing trip prior to permitting a vessel access to the port. Paragraphs 52 – 64.

**2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing** Voluntary minimum standards for port State measures are provided, including the responsibilities of a port State, inspections, follow-up actions, information requirements for vessels and information systems, training of inspectors to improve their effectiveness and harmonization of controls and reporting standards among countries.

## FAO PUBLICATIONS

**Report of and papers presented at the Expert Consultation on Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Report No. 666*, Rome, FAO, 2000.

**Report of the Technical Consultation on Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Report No. 634*, Rome, FAO, 2000.

**Report of the joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters**, *FAO Fisheries Report No. 637*, Rome, FAO, 2001.

**Report of the second Technical Consultation on Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Report No. 646*, Rome, FAO, 2001.

**Implementation of the International Plan of Action to Prevent Illegal, Unreported and Unregulated Fishing**, *FAO Technical guidelines for responsible Fisheries No. 9*, Rome, FAO, 2002.

**Report of the Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Report No. 692*, Rome, FAO, 2002.

**Port State Control of Foreign Fishing Vessels**, *FAO Fisheries Circular No. 987*, Rome, FAO, 2003.

**Progress report on the Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and Resolution 6/2003**, Report of the Conference of FAO, Thirty-Second Session, Rome, FAO, 2003.

**Progress report on the Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing**, Rome, FAO, 2003.

**Report of the Expert Consultation on Fishing Vessels Operating Under Open Registries and their Impact on Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Report No. 722*, Rome, FAO, 2004.

**Report of the Technical Consultation to review the progress and promote the full implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the International Plan of Action for the Management of Fishing Capacity**, *FAO Fisheries Report No. 753*, Rome, FAO, 2004.

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**International Action and Responses by Regional Fisheries Bodies or Arrangements to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing**, *FAO Fisheries Circular No. 996*, Rome, FAO, 2004.

**Model plan for a Pacific Island country. National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing**, FAO non serial publication, Rome, FAO, 2005.

### **FAO HUMAN RESOURCE DEVELOPMENT AND CAPACITY BUILDING**

**Regional Workshop on Marine Fisheries Management and Enforcement. FAO, Fishery monitoring, control and surveillance (MCS) and the control of illegal fishing**, Mauritius 2002.

**FAO Regional Workshop on the elaboration of National Plans of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated Fishing – Southern and East Africa Subregion**, Zimbabwe 2003.

**FAO Regional Workshop on the elaboration of National Plans of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated Fishing – Southeast Asia Subregion**, Malaysia 2004.

**FAO Regional Workshop on the elaboration of National Plans of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated Fishing – Pacific Islands Subregion**, Fiji 2005.

**FAO Regional Workshop on the elaboration of National Plans of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated Fishing – West African Subregion**, Ghana 2005.

**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**, Egypt 2005.

**FAO/CPPS Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing**, Ecuador 2005. Report in press.

**FAO Final Workshop on the Elaboration of National Plans of Action**, El Salvador 2005.

**FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing - South Asian Subregion**, Thailand 2006.

**FAO/FFA Regional Workshop to promote the full and effective implementation of Port State Measures to Combat IUU Fishing**, Fiji, 2006.

### **UNITED NATIONS – RECENT OUTCOMES**

**UN Open Ended Informal Consultative Process on Oceans and the Law of the Sea (ICP) 2005**. States were encouraged “to apply the FAO Port State Model Scheme at the national and regional levels, promote its application through regional fisheries management organizations and consider the possibility of adopting a legally binding instrument”. Sixth Meeting, A/60/99, (2005).

#### **UN General Assembly Resolutions on Sustainable Fisheries**

2005. The UNGA recognized “ the need for enhanced port State controls to combat illegal, unreported and unregulated fishing, urges States to cooperate, in particular at the regional level and through regional and subregional fisheries management organizations and arrangements, and encourages States to apply the model scheme on port State measures endorsed by the Committee on Fisheries at its twenty-sixth session

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in March 2005 at the national and regional levels, to promote its application through regional fisheries management organizations and arrangements and bodies, and to consider, when appropriate, the possibility of developing a legally binding instrument". UNGA Resolution 60/31, (2005);

2006. The UNGA:

- called attention to "the need for more work to develop port State measures and schemes, and the critical need for cooperation with developing States to build their capacity in this regard";
- recognized "the need for enhanced port State controls to combat illegal, unreported and unregulated fishing, and urges States to cooperate, in particular at the regional level and through subregional and regional fisheries management organizations and arrangements, to adopt all necessary port measures, consistent with international law taking into account article 23 of the Agreement, particularly those identified in the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing, adopted by the Food and Agriculture Organization of the United Nations in 2005, and to promote the development and application of minimum standards at the regional level";
- encouraged States "to initiate, as soon as possible, a process within the Food and Agriculture Organization of the United Nations to develop, as appropriate, a legally binding instrument on minimum standards for port State measures, building on the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations";
- also encouraged States "with respect to vessels flying their flag, and port States, to make every effort to share data on landings and catch quotas, and in this regard encourages regional fisheries management organizations or arrangements to consider developing open databases containing such data for the purpose of enhancing the effectiveness of fisheries management". UNGA Resolution 61/105, (2006).

#### UN Fish Stocks Agreement Review Conference

2006. The Review Conference recommended that States individually and collectively through RFMOs "adopt all necessary port State measures, consistent with Article 23 of the Agreement, particularly those envisioned in the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing, and promote minimum standards at the regional level; and in parallel, initiate, as soon as possible, a process within FAO to develop, as appropriate, a legally binding instrument on minimum standards for port State measures, building on the FAO Model Scheme and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing". Report of the Review Conference. A/CONF.210/2006/15.

#### RECENT MINISTERIAL FORA

The Rome Declaration on the implementation of the Code of Conduct for Responsible Fisheries adopted by the FAO Ministerial Meeting on Fisheries, March 1999.

The Rome Declaration on Illegal, Unreported and Unregulated Fishing adopted by the FAO Ministerial Meeting on Fisheries, March 2005.

Second APEC Ocean-Related Ministerial Meeting (AOMM2), September 2005.

Eleventh Conference of North Atlantic Fisheries Ministers (NAFMC), June 2006.

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Round Table Conference on measures against Illegal, Unreported and Unregulated Fishing, August 2006.

### **PUBLICATIONS**

Edeson W., "The International Plan of Action on Illegal Unreported and Unregulated Fishing: The Legal Context of a Non-Legally Binding Instrument", *Marine and Coastal Law*, Vol. 16, N. 4, December 2001, pp. 603-623.

Environmental Justice Foundation, "Pirates and Profiteers – how pirate fishing fleets are robbing people and oceans", EJF, 2005.

Gianni M. and Simpson W., "The Changing Nature of High Seas Fishing: How flags of convenience provide cover for illegal, unreported and unregulated fishing", Australian Government/ITF/WWF, 2005.

High Seas Task Force, "Closing the Net: Stopping illegal fishing on the high seas", HSTF, 2006.

High Seas Task Force, "Port States Measures Final Report - Promoting Responsible Ports", HSTF, 2006.

1st Chatham House Update and Stakeholder Consultation Meeting, "Illegal, Unreported and Unregulated Fishing", Chatham House, 2006.

2nd Chatham House Update and Stakeholder Consultation Meeting, "Illegal, Unreported and Unregulated Fishing", Chatham House, 2006.

OECD, "Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing", OECD, 2004.

Ortiz P., "An overview of the U.S. Lacey Act Amendments of 1981 and a proposal for a model Port State Fisheries Enforcement Act", HSTF, 2005.

Riddle K., "Illegal, Unreported, and Unregulated Fishing: Is International Cooperation Contagious?", *Ocean Development & International Law*, Vol. 37, N. 3-4, July-December 2006, pp. 265-297.

Swan J., "Port State Measures to combat IUU fishing: international and regional developments", *Sustainable Development Law & Policy*, Vol. VII, Issue I, Fall 2006, pp. 38-43.

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