

IUU Fishing and its Relation to the Rights of Fishworkers in International Law



MINISTERO POLITICHE AGRICOLE
ALIMENTARI E FORESTALI



Uilapesca-Cres

IUU Fishing and its Relation to the Rights of Fishworkers in International Law

Seyed Hossein MARASHI & Fabrizio DE PASCALE

Report funded by the Directorate General for Fishery
of the Italian Ministry for Agricultural, Food and Forestry Resources

November 2012

Executive Summary

The problems associated with the conservation and management of the fishery resources of the high seas were not addressed adequately by the 1982 Law of the Sea Convention. The Convention formally defined the limits of various zones in the seas, together with the rights and duties of States in respect of each of those zones. While coastal States had sovereignty in the 12 miles territorial sea and sovereign rights in the 200 miles EEZ, the fate of the high seas was left to the goodwill of the States whose nationals were engaged in fishing in those areas. All that was required by the Convention in respect of the conservation and management of the high seas resources was an obligation to cooperate with each other or through regional fishery organizations.

The illegal and intensive fishing which had started after World War 2 continued in many fisheries and many parts of the world in the 1980s and 1990s. The use of driftnets in all parts of the oceans seriously threatened the very survival of many species. The UN and FAO have introduced and adopted a number of international legal and voluntary instruments to stop this trend. At the same time there has been a concerted effort to strengthen the RFOs and make them both more effective and more responsible. These two initiatives have been and continue to be regarded as the proper channels through which illegal fishing can be prevented. A distinction has been made in recent years between the fishery bodies whose mandates include management (RFMOs) and those whose mandates are essentially of an advisory nature (RFOs).

There is no doubt that the actions taken so far are essential to the survival of many fish stocks. The problem of conservation and management has three dimensions and while there has been focus on the resources and the legal framework to address the problem, the third dimension of conservation and management - i.e., the fishworkers - has been completely ignored in all the attempts which have been made.

There is a clear and undisputed link between fish and fishworkers. The offence is committed by fishworkers and therefore there must be as much study of the reasons for such a widespread offence. It is also argued that if fishworkers are adequately protected by law, the likelihood of the offence being committed will be dramatically reduced. In short, IUU fishing needs to address the third dimension of the problem.

The main objective of the ILO has been to introduce international instruments safeguarding the fundamental rights of workers. The main principles relating to the fundamental rights of workers have been referred to as “decent work”. This term has now become universally recognized and used in many international instruments. The Preamble to the 2007 Convention states that the aim of the Convention is for fishers to have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security.

The Work in Fishing Convention, 2007 has provided a minimum amount of protection for fishworkers. It has brought together and updated a number of fragmented Conventions which had been adopted by the ILO between 1959 and 1966. Unfortunately the 2007 Convention has not received the support it needs in order to become law. The FAO, with a global mandate in respect of fisheries, and other relevant UN agencies as well as the RFMOs should make a concerted effort to encourage their members to ratify the 2007 Convention so the rights of fishworkers are universally acknowledged and recognised. The RFMOs should collect the relevant laws and regulations concerning the protection of fishworkers’ rights in member countries. The rights afforded to the fishworkers should then be compared to those recognized in the 2007 Convention. The GFCM is the first RFMO to have initiated this process. It is expected that other RFMOs will embark soon on this vital work.

And finally it is suggested that the definition of IUU fishing should be expanded to include the employment and fishing activities of fishworkers who do not have proper documentation to prove that their rights are properly protected according to the provisions of 2007 Convention.

TABLE OF CONTENT

Introduction

PART I: Origin, Definition, and Development of IUU Fishing

- 1. Origin**
- 2. Definition**
- 3. Development of IUU Fishing**
 - a. Background
 - b. The 1982 UN Convention on the Law of the Sea
 - c. Driftnet Problem, 1989
 - d. International Instruments and IUU Fishing

PART II Measures Adopted to Combat IUU Fishing

- 1. UN**
- 2. FAO**
- 3. EU**
- 4. Regional Fishery Management Organisations**

PART III The Concept of Decent Work

- 1. Background**
- 2. Definition of Decent Work**
- 3. International Instruments referring to Decent Work**
 - a. ILO
 - b. UN
 - c. FAO
 - d. EU

PART IV Rights of Fishworkers under International Legal Instruments

- 1. ILO Work in Fishing Convention, 2007 (C188)**
 - a. Background
 - b. Rights of Fishworkers under the Provisions of 2007 ILO Convention
 - i. Engagement
 - ii. Work and Living Conditions
 - iii. Social Security

2. **Rights of Fishworkers under the Provisions of 2007 ILO Convention**
3. **Recent Developments towards Implementation of ILO 2007 Convention**
 - a. ILO Action Plan 2011-2016
 - b. EU Recommendations
 - c. Agreement Between European Transport Workers Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) and the General Federation of Agricultural Co-operatives in the European Union (Cogeca), 2012

PART V Sustainable Fishing and Decent Work

1. **Decent work concerning fishworkers under international instruments**
 - a. Decent work and sustainable fishing under ILO Conventions and Recommendations
 - b. Decent work and sustainable fishing under the FAO's international instruments
 - c. Decent Work and sustainable fishing under other international
2. **Decent Work and IUU Fishing**
 - a. FAO/IMO ad hoc Working Group on IUU fishing, 2000
 - b. A/RES/62/177, 2008
 - c. Council Decision (2010/321/EU)
 - d. EU Parliament: Motion for a Resolution on combating illegal fishing at global level, 2011
3. **PESCAMED and GFCM Approach** to the study of the Relationship between IUU Fishing and Decent Work

Conclusion

Selected Documents

Abbreviations and Acronyms

• CCSBT	Commission for Conservation of Southern Bluefin Tuna
• CIHEAM	International Centre for Advanced Mediterranean Agronomic Studies
• COFI	FAO Committee on Fisheries
• Cogeca	General Federation of Agricultural Co-operatives in the European Union
• Europêche	Association of National Organisations of Fishing Enterprises in the European Union
• CSD	UN Commission on Sustainable Development
• EC	European Community
• ECOSOC	United Nations Economic and Social Council's Committee on Economic, Social and Cultural Rights
• EEZ	Exclusive Economic Zone
• EFCA	European Fisheries Control Agency
• ETF	European Transport Workers Federation
• EU	European Union
• FAO	Food and Agriculture Organization of the United Nations
• GFCM	General Fisheries Commission for the Mediterranean
• GR	Global Record
• IAMB	Mediterranean Agronomic Institute of Bari
• ICCAT	International Commission for the Conservation of the Atlantic Tuna
• ICES	International Council for the Exploration of the Sea
• IOE	International Organisation of Employers
• IOTC	Indian Ocean Tuna Commission
• IPOA	International Plan of Action
• IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
• ITF	International Transport Workers' Federation
• ITUC	International Trade Union Confederation
• IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
• IUU fishing	Illegal, Unreported and Unregulated fishing
• JWG	Joint Working Group
• MCS	Monitoring, Control and Surveillance
• MDGs	Millennium Development Goals
• NPAFC	North Pacific Anadromous Fish Commission
• NASO	National Aquaculture Sector Overview
• NEAFC	North East Atlantic Fisheries Commission
• OECD	Organization for Economic Cooperation and Development

• RFB	Regional Fishery Body
• RFMO	Regional Fisheries Management Organization
• SAC	Scientific Advisory Committee (GFCM)
• SCESS	Subcommittee on Economic and Social Sciences (GFCM)
• SECTOR	ILO's Sectoral Activities Department
• SPA	Social Partners' Agreement
• TFEU	Treaty on the Functioning of the European Union
• UN	United Nations
• UNCED	1992 United Nations Conference on Environment and Development
• UNEP	United Nations Environment Programme
• UNGA	General Assembly of the United Nations
• UNFSA	United Nations Fish Stocks Agreement
• VMS	Vessel Monitoring System
• WCPFC	Western and Central Pacific Fisheries Commission

Introduction

1. Since the adoption of the Law of the Sea Convention in 1982, the international law of fisheries management has gone through some fundamental changes. These changes have placed a greater emphasis on the conservation and management of the oceans' resources. It has become imperative that measures adopted for the conservation and management of fisheries resources should take into account the principles of sustainable development, the preservation of biological diversity and the application of the precautionary approach.

2. None of these measures will, by themselves, restore the depletion of many fish stocks unless there are mechanisms to reduce and eradicate illegal, unreported and unregulated (IUU) fishing in almost all areas of the oceans, including the areas under national jurisdiction. The task of combating IUU fishing falls on all who are stakeholders in the fishing industry, including States, regional fishery organizations, shipowners/employers, and fishworkers and their representative organizations.

3. The Technical Consultation on High Seas Fishing organized by the Food and Agriculture Organization of the United Nations (FAO) held in Rome in 1992 made an unqualified connection between management of fisheries resources and fishworkers' rights by recommending the adoption of all the relevant International Labour Organization's (ILO) Conventions by States. Furthermore FAO made it clear in a report in 2000 that the circumstances that lead to IUU Fishing are complex but in some way or another are usually interrelated and of an economic nature. Perhaps the most important element as a contributing factor is the "human element". The fishworkers and the small fishing communities are the first casualties of IUU fishing.

4. It is argued that as long as measures introduced by ILO and other relevant international organizations to protect and safeguard the basic and fundamental rights of fishworkers are not adopted and effectively implemented by States, the damage inflicted by IUU fishing on fish stocks and the environment as well as on fishworkers and their communities will continue. The abuse of fishworkers' rights is often extended to the abuse of conservation and management measures adopted by coastal States or by Regional Fishery Management Organizations (RFMO). Systematic IUU fishing is carried out by those who are also engaged in illegal activities relating to the rights of their fishworkers, including their safety, health, working conditions etc.

5. The damage done to fish stocks through IUU fishing have a direct and devastating effect on the smaller fishing communities as well as on fishworkers. While the cost of overexploitation through IUU fishing has been the subject of a number of global and regional studies, the human and social costs of IUU fishing have not been studied in detail. The present report will analyse the problem of IUU fishing in relation to fishworkers and put forward proposals for reducing IUU fishing and its devastating consequences on those whose livelihoods are entirely dependent on this most hazardous of professions.

6. FAO and the Regional Fishery Management Organizations have long been concentrating on developing an effective strategy to combat IUU fishing. There are now a number of international and regional agreements which provide a legal framework for deterring, reducing and eliminating IUU fishing. But while these measures are primarily concerned with the fishery resources and the preservation of the marine environment, the most important element in this triangle - the fishers themselves - is missing. It has not been the policy of FAO or the RFMOs to address the human element of this triangle properly. Prior to the adoption of the ILO Work in Fishing Convention, 2007, there were very few international, regional and in many cases national provisions concerning the rights of fishworkers. And even following the adoption of the 2007 Convention, ILO members have been positively reluctant to ratify the Convention.

7. There is a very strong argument that unless the issues related to fishworkers' rights are recognised, addressed and resolved and their rights are properly and adequately protected according to the ILO Conventions and Recommendations, no amount of legislation will succeed in eradicating IUU fishing. For as long as there is no universal set of laws applicable to all fishworkers and protecting their rights, IUU fishing through the illegal employment without legal protection of those desperate for work will continue. Those engaged in the illegal employment of desperate workers have no scruples about breaking conservation and management regulations. If there is no respect for human rights, there will never be any respect for fishery resources and the marine environment.

PART I The Origins, Definition, and Development of IUU Fishing

1. Origins

8. The 1982 UN Convention on the Law of the Sea (UNCLOS) uses the term “violation” in respect of non-compliance with conservation and management measures adopted by both the coastal States and competent regional fishery organizations.¹ The Resolutions adopted by the General Assembly of the UN in the 1980s and 1990s refer to “unauthorized” fishing when referring to the contravention of international fishery laws and regulations.² The United Nations Fish Stocks Agreement (UNFSA) of 1995 makes references to “violation”³, “illegal activities”⁴, and “unregulated fishing”.⁵ In 1996 the terms “illegal” and “unregulated” were also used during the meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).⁶ The Norwegian delegate stated that he believed “illegal and unreported fishing is currently the greatest threat to CCAMLR”.⁷

9. Following a proposal by the UK during the 1997 meeting of CCAMLR, the Commission added an item to its agenda entitled: “Illegal, Unregulated and Unreported Fishing in the Convention Area”.⁸ The term was used frequently throughout the 1997 report. It is from 1997 and the meeting of CCAMLR that the term “Illegal, Unregulated and Unreported” fishing is used as a standard and universal term.

2. Definition

10. The 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) describes IUU fishing as falling into one of three categories:

a. Illegal fishing:

- i. Activities conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

¹ See for instance Articles: 39, 73, and 111. There are references to violation and the responsibility of flag States in Article 717, port States in Article 218 and coastal States in Article 220.

² See for examples GA Resolutions 49/116, 1994, 50/25, 1995, 51/36, 1996, 52/29, 1997, 53/33, 1998. The term “illegal, unreported and unregulated” fishing appears for the first time in GA Resolution 54/32, in January 2000, See the Preamble and Paragraphs 9 and 10 of the Resolution.

³ Articles 19, 20, and 27 of 1982 UNCLOS.

⁴ Article 10.

⁵ In the Preamble it states that “there are problems of unregulated fishing...”.

⁶ Report of the Commission’s XV meeting, 1996.

⁷ Report of the Commission’s XV meeting, 1996, P. 80, Para. 12.13. The term “illegal” appears many times in the report, see pp. 25, 74, 79, 80, 85, 135, 138, 139, 140, 142, 143, 151, and 152.

⁸ Report of the CCAMLR, XVI meeting, 1997, at p. 2, Para. 2.1

- ii. Activities conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law;
 - iii. Activities conducted in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.
- b. Unreported fishing**
 - i. Activities which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations
 - ii. Activities undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- c. Unregulated fishing**
 - i. Activities in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization
 - ii. Activities in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

11. The above definition of IUU fishing is a description of various infringements committed in different areas and by different people and in respect of different species. A simple definition would be to define the term as “any infringement by any person or entity of the existing laws and regulations concerning the conservation and management of fishery resources prescribed by the coastal States (in their EEZ), regional fishery management organizations (in areas for which they are responsible), and by international conventions (in respect of global issues)”. Not being a party to a particular convention or membership of a relevant regional fishery management

organization should not be an excuse for breaking the conservation and management regulations.

3. Development of IUU Fishing

a. Background

12. Between 1950 and 1958 the UN, first through the International Law Commission and then by organising the First UN Conference on the Law of the Sea (UNCLOS), tried to formulate various aspects of the Law of the Sea, including the conservation of the fishery resources of the high seas. Article 1 of the 1958 Geneva Convention on the High Seas, described the term “high seas” as “all parts of the seas that are not included in the territorial sea or in the internal waters of a State”. The 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas did not mention the term “management” in the entire text but instead invited various interested parties to negotiate and agree on appropriate measures aimed at the conservation of the living resources of the high seas. UNCLOS I failed completely since it could not agree on the extent of the territorial sea at a time when most developing coastal States wanted a 12 mile limit in order to protect their coastal fisheries, which were threatened by technologically advanced distant water fishing nations.

13. IUU fishing has long been recognized as a major threat to fish stocks, marine ecosystems and the conservation and management measures adopted at national, regional and international levels, either by coastal States or through bilateral or multilateral agreements. In addition, it has had a detrimental effect on many small fishing communities throughout the world. The unilateral declarations in the 1950s, 1960s and 1970s claiming extended territorial, fishery zone and the continental shelf were instrumental in the development of the international law of fisheries. These unilateral declarations were the direct consequence of IUU fishing by distant water fishing nations whose trawlers used to plunder the fishery stocks of coastal areas outside the three-mile limit of the territorial sea.

14. IUU fishing and the problems it poses to many fish stocks have been also discussed by the UN General Assembly, as well as the FAO Committee on Fisheries and the FAO/IMO Ad Hoc Working Group on IUU Fishing. The extent of the problem was outlined in the UN Secretary General’s Report in 1999.⁹ It pointed out that IUU fishing has been reported in various regions under the purview of subregional and regional fisheries management organizations or arrangements. IUU fishing was reported by the following RFMOs: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the General Fisheries Commission for the

⁹ See Oceans and the Law of the Sea, Report of the Secretary-General, A/ /54/429, 30 September 1999

Mediterranean (GFCM), the North Pacific Anadromous Fish Commission (NPAFC), the Indian Ocean Tuna Commission (IOTC), the North East Atlantic Fisheries Commission (NEAFC), the Northwest Atlantic Fisheries Organization (NAFO), the North Atlantic Salmon Conservation Organization (NASCO), and the Commission for Conservation of Southern Bluefin Tuna (CCSBT).¹⁰

b. The 1982 UN Convention on the Law of the Sea

15. The adoption of the UNCLOS III in 1982 and especially the provisions on the conservation and management of resources through bilateral or multilateral agreements or arrangements was a great achievement in establishing a regime for high seas fisheries, which until 1982 had been non-existent while outdated practices had become, for the most part, anarchic. While recognizing the freedom of the high seas and the right of all States to engage in fishing (Article 87), the Convention set a number of conditions regarding the conservation and management of the resources of the high seas. These consisted basically of an obligation on the part of States fishing in the high seas to cooperate with each other and through bilateral or multilateral agreements to ensure that fishery resources are properly conserved and managed (Articles 116-120). Similar requirements are included in Article 63 of UNCLOS in relation to straddling and highly migratory fish stocks

16. As it transpired, the 1982 Convention needed a number of supplementary international and regional legal instruments in order to make sure that the conservation and management of the fishery resources of the high seas are properly carried out and IUU fishing reduced and gradually eradicated. The Convention places a great deal of importance on the formulation of appropriate regulations for the conservation and management of the fishery resources in the EEZ by coastal States and in the high seas through bilateral and multilateral agreements. The 1982 Convention makes only one reference to “fishermen” in the entire text and that is made in relation to the conditions of licenses granted to nationals of other States to fish in the EEZ.¹¹

17. By the time the 1982 UNCLOS entered into force in 1994, many countries and almost all the regional fishery organizations responsible for the conservation and management of fishery resources had faced a number of serious problems. Perhaps the most serious of these was the widespread use of driftnets in fisheries in most areas, with devastating effects on stocks and the environment. There were other problems too, including the conservation and management of straddling and highly migratory fish stocks. The immediate outcome of these problems was a concerted effort by the UN, FAO and the regional fishery organizations to pursue policies and adopt practical and appropriate measures in order to minimize the effects of these illegal acts.

¹⁰ J. Swan, “International action and responses by Regional Fishery Bodies or Arrangements to prevent, deter and eliminate illegal, unreported and unregulated fishing”, FAO Fishery Circular 996, 2004.

¹¹ UNCLOS: Article 62. 4 (a) relates to measures adopted by the coastal State which may relate *inter alia* to: “(a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration..

c. Driftnet Problem, 1989

18. The problem concerning driftnet fisheries began with the expansion of Japanese and Taiwanese driftnet fisheries for tunas in the South Pacific in the 1980s. This was considered by the coastal States in the region as a serious threat to the sustainability of the fisheries, particularly in relation to tuna species. It also threatened and seriously affected a number of non-target species which were being caught as a result of this method of fishing. The South Pacific Forum was the first organization to adopt a declaration in July 1989 in Tarawa, Kiribati, followed by the adoption of Wellington Convention in November 1990. The Convention banned the use of long driftnets.

19. Since the practice of driftnet fishing was widespread and the threat very serious, it was discussed by numerous fishery and other organizations. In 1989 the General Assembly of the United Nations adopted a Resolution addressing the problem. The 1989 Resolution 44/225 stated that more than one thousand fishing vessels use large-scale pelagic driftnets in the Pacific, Atlantic and Indian Oceans and in other areas of the high seas. It recommended a moratorium on all large-scale pelagic driftnet fishing on the high seas by 30 June 1992. It asked for immediate action to reduce progressively large-scale pelagic driftnet fishing activities in the South Pacific region as well as in the North Pacific. The Resolution was supported by a number of fishery and other relevant organizations including the European Union (1989), International Whaling Commission (1990), The South Pacific Fisheries Forum Agency (1990) endorsing the Wellington Convention, the Fishery Commission of the Organization for Economic Cooperation and Development (OECD), (1990). The UN passed two more Resolutions on this subject.¹²

20. At its Nineteenth Session in 1991, the FAO Committee on Fisheries stated that the GA Resolutions (44/225, 1989 and 45/197, 1990) on driftnets constituted the basis on which all members of the international community had consented to work. It strongly appealed for their complete and timely implementation. The Committee then recommended that FAO strengthen its work on gear selectivity and seek to elaborate a code of practice for responsible fishing. It may be argued that as a result of the discussions and close scrutiny of the consequences of the problems caused by large-scale driftnet fishing, a more practical approach to these problems was discussed and developed. The intensive international activities by the UN, FAO, RFMOs, EU and other fisheries or economic groupings which were born as a result of driftnet fishing resulted in a number of important and practical international instruments, at the heart of which was responsible fishing. Responsible fishing would include a number of principles including “sustainable development”, “preservation of environment” and “precautionary approach”.

¹² GA Res. 45/197, 12 December 1990, and GA Res. 46/215, 20 December 1991.

d. International Instruments and IUU Fishing

21. The FAO Technical Consultation on High Seas Fishing held in Rome in 1992 stated that “The provisions of the 1982 UN Convention on the Law of the Sea constituted the principal legal framework for the development of a regime for high seas fishing, supplemented by provisions agreed at UNCED and those contained in the Declaration of Cancún.” In other words, the UNCLOS did not and could not have addressed all the problems which would emerge in the high seas fishing. The various measures adopted subsequently were in response to some of the problems which needed to be addressed separately and in detail. Since the adoption of UNCLOS in 1982 the following international instruments have addressed the problem of IUU fishing. According to international law these are divided into two distinct categories, as described below.

i. International agreements or conventions whose application is compulsory by those who have become parties to them:

- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993¹³
- 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, 1995¹⁴
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009¹⁵

ii. International instruments whose application is voluntary

- Cancún Declaration on Responsible Fishing, 1992
- UN Conference on Environment and Development, 1992
- FAO Technical Consultation on High Seas Fishing, 1992
- Rome Consensus on World Fisheries, 1995
- FAO Code of Conduct for Responsible Fisheries, 1995
- International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), 2001
- The 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing (IUU)

22. The international instruments referred to in Paragraph 21 are of different legal characters. While the international Agreements are treaties and subject to the provisions of the 1969 Vienna Convention on the Law of Treaties, other instruments

¹³ The Agreement entered into force on 24 April 2003

¹⁴ The Agreement entered into force on 11 December 2001

¹⁵ The Agreement has not yet entered into force

are either declarations on certain principles or declaration of intent on the part of the States who have signed such declarations. States who commit themselves to follow a certain rules or code of conduct may not be legally bound by them, but they are certainly morally under an obligation to fulfil their undertakings.

PART II Measures Adopted to Combat IUU Fishing

23. Measures adopted to combat IUU fishing are not of equal juridical weight and importance under international law; they are, however, instruments devised to address the problems of IUU fishing in the most practical way. They include (a) measures adopted by individual States, (b) measures adopted by RFMOs or arrangement, and by economic groupings, (c) measures adopted by the UN with universal application. These measures are seen as having been adopted within the framework of the 1982 UNCLOS.

24. In this Part the contribution of the UN, FAO, EU, GFCM and other RFMOs in adopting measures to prevent, reduce, and eradicate IUU fishing are briefly described.

1. UN

25. The UN has been actively involved in all matters related to IUU fishing. It has sought to address this problem either directly or through its specialized agencies (FAO, IMO, UNEP, etc.). Following the adoption of the UNCLOS and its entry into force, with a substantial contribution from FAO, the UN was responsible for the adoption of UNCED and UNFSA,¹⁶ the progress of which are being actively followed by the UN. It also kept a close watch on the development of reducing or banning large-scale driftnets and was particularly active during the 1990s.¹⁷

26. In 1998 the Report of the Secretary General on Oceans and the Law of the Sea, makes the following statement in its Regional Review: “However, there was general agreement among members of CCAMLR as regards the following: (a) the evidence of large-scale *illegal, unreported and unregulated* fishing in the Convention area submitted by CCAMLR members during 1996/97 and in the beginning of the 1997/98 season seriously undermined the work of the Commission in achieving the Convention’s objective...”¹⁸

27. The problem of IUU fishing as a subject of international concern and a serious threat to the fishery resources of many regions was first addressed in the Report of the Secretary General to the General Assembly of the UN in 1999.¹⁹ After referring to the problems of overfishing and by-catch, the Report goes on to say that in addition to these problems “the prevalence of illegal, unregulated and unreported (IUU) fishing on the high seas, in contravention of conservation and management measures adopted by subregional and regional fisheries management organizations and arrangements, is considered to be one of the most severe problems currently affecting world

¹⁶ 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, 1995

¹⁷ Please note that the references to the General Assembly Resolutions are those of the publication dates and not the adoption. The GA Resolutions are usually adopted at the Plenary Meetings in November/December each year.

¹⁸ Italic added, see Paragraph 289 of , Report of the Secretary General on Oceans and the law of the sea, (1999) A/53/456, 1998

¹⁹ Report of the Secretary General on Oceans and the law of the sea, A/54/429, 1999

fisheries”.²⁰ The Report made specific references to IUU fishing in areas subject to regulation by relevant RFMOs including the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the General Fisheries Commission for the Mediterranean (GFCM), the North Pacific Anadromous Fish Commission (NPAFC), the Indian Ocean Tuna Commission (IOTC), and the Commission for Conservation of Southern Bluefin Tuna (CCSBT).²¹

28. Reference should also be made to the Seventh Session of the UN Commission on Sustainable Development (CSD) in April 1999. The Commission discussed the issue and noted that FAO would give priority to the development of an International Plan of Action (IPOA) to deal effectively with any form of IUU fishing. The CSD emphasized the importance of flag and port State issues in combating IUU fishing. The United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea in late May and early June 2000 addressed IUU fishing.²²

29. Following this Report, at its Plenary Meeting held in November 1999 the General Assembly passed Resolution 54/32 concerning IUU fishing.²³ The demands made on States included not to permit vessels flying their flags to engage in fishing on the high seas without having effective control over their activities. It urged States to participate in FAO’s efforts to develop an IPOA to address IUU fishing, in particular in the technical consultation scheduled for 2000. It further called upon the IMO, FAO and RFMOs and other relevant organizations to define the concept of the genuine link between the fishing vessel and the State in order to assist in the implementation of the UN Fish Stocks Agreement. It also encouraged all States and entities involved to work with flag States and FAO in developing and implementing measures to combat or curb IUU fishing.

30. In the following year, the GA Resolution 55/7 (2000) expressed serious concern at the increase in illegal, unreported and unregulated fishing. It recognized the importance of strengthening cooperation to combat such activities, particularly through the relevant regional fisheries management organizations and arrangements. It urged States to continue the development of an international plan of action on illegal, unregulated and unreported fishing for the FAO, as a matter of priority, recognizing the central role that regional and subregional fisheries organizations and arrangements will have in addressing this issue. Another UN Resolution was adopted in October 2000.²⁴ It expressed serious concern in relation IUU fishing and welcomed the cooperation being undertaken with the ILO and other relevant

²⁰ Paragraph 249 of A/54/429, 1999

²¹ Paragraph 250 of A/54/429, 1999

²² See paragraphs 9 to 14 of the Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea. UN General Assembly document A/55/274.

²³ A/54/32, 2000

²⁴ A/Res/ 55/8, October 2000

international organizations in the joint Ad Hoc Working Group of the FAO and IMO on combating illegal, unreported and unregulated fishing.

31. The progress of the work of FAO and IMO in relation to the consultation, introduction and adoption of measures to prevent, deter and eradicate IUU fishing has since been followed by the General Assembly on annual basis.²⁵ The Resolution adopted in 2002 urged States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity.²⁶ In 2003 the General Assembly called for a strengthening of the international legal framework for intergovernmental cooperation, in particular at the regional and subregional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law. It also called upon flag and port States to take all measures consistent with international law necessary to prevent the operation of sub-standard vessels and illegal, unreported and unregulated fishing activities. It went on to encourage States to consider becoming members of the International Monitoring, Control, and Surveillance Network for Fisheries-Related Activities.²⁷

32. The UN has continued to monitor and closely scrutinize the progress of developing a mechanism or mechanisms through which IUU fishing can be stopped.²⁸ In its Resolution 61/105, 2007 the General Assembly emphasized once again its serious concern that illegal, unreported and unregulated fishing remains one of the greatest threats to marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, and renewed its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all necessary steps to implement the FAO's International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. The Resolution urged further international action to eliminate IUU fishing by vessels flying "flags of convenience" as well as to require that a "genuine link" should be established between States and fishing vessels flying their flags. It called upon States to implement the 2005 Rome Declaration on IUU Fishing as a priority.

33. As well as making proposals and advising its members and specialized agencies on devising and developing strategies to eradicate IUU fishing, the UN has continued to support and monitor international efforts, particularly those of FAO, IMO and RFMOs and arrangements and other international bodies, to combat IUU fishing. It has urged and continues to urge States to adhere to their international obligations. It has repeatedly warned States of the detrimental effects of IUU fishing on the environment and particularly on the economies of developing countries.²⁹

²⁵ A/RES/56/13, 2001

²⁶ A/RES/57/142, 2003

²⁷ A/RES/58/14, 2004

²⁸ See Resolutions A/RES/59/25, 2005, A/RES/60/31, 2006, A/RES/61/105, 2007

²⁹ See GA Resolutions A/RES/64/72, 2010, A/RES/65/38, 2011, and A/RES/66/68, 2012.

2. FAO

34. FAO has a global mandate to promote and, when appropriate, to recommend national and international action pertaining to fisheries research, conservation and development. The Organization has used this mandate to respond not only to the needs and requests of its members but also, and more importantly in recent years, to the crisis facing the conservation and management of international fisheries. FAO's contribution to the development of the international law of fisheries has been invaluable. FAO's Committee on Fisheries (COFI), a subsidiary body of the FAO Council, was established by the FAO Conference at its Thirteenth Session in 1965.

35. COFI has two main functions: (a) to review FAO's programmes of work in the field of fisheries and aquaculture and their implementation, and (b) to conduct general reviews of fishery and aquaculture problems of an international character and appraise such problems and their possible solutions with a view to concerted action by nations, FAO, intergovernmental bodies and civil society. The Committee also reviews specific matters relating to fisheries and aquaculture referred to it by the Council or the Director-General, or placed by the Committee on its agenda at the request of Members, or the United Nations General Assembly (UNGA). COFI is the only specialized global forum where major international fisheries and aquaculture problems and issues are examined.

36. Soon after the adoption of the 1982 UNCLOS a number of problems emerged, leading COFI to initiate the FAO World Conference on Fisheries Management and Development which was held in Rome in 1984. The Strategy on fisheries management and development endorsed by the 1984 Conference placed primary emphasis on the need for better management of the world's fishery resources. It stressed that the fundamental issue in tackling management problems if the Strategy is to be successful is that of controlling open access to fisheries. The consequences of continued open access (which include further depletion of fishery stocks and increased conflicts among users) are extremely damaging.

37. The unregulated fishing in the high seas which continued even after the adoption of the 1982 UNCLOS, the fishing of straddling and highly migratory fish stocks which occurs in the high seas and the EEZs in contravention of existing conservation and management measures by coastal States and RFMOs, and the problem of large scale driftnet fishing with devastating effects on the fishery stocks resulted in COFI taking a number of initiatives to address these problems. They included the International Conference on Responsible Fishing that led to the adoption of the Declaration of Cancún in 1992, the United Nations Conference on Environment and Development (UNCED), 1992, the FAO Technical Consultation on High Seas Fishing, 1992, the Ministerial Meeting on Fisheries (Rome Consensus on World Fisheries), 1995. FAO actively participated in the Agreement for the

Implementation of the Provisions of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA).

38. FAO began its efforts in relation to illegal or unauthorized fishing by adopting the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. FAO Code of Conduct for Responsible Fisheries was adopted by the FAO Conference at its Twenty-eighth Session in 1995. The Code is a voluntary document, although it has been devised within the framework of 1982 UNCLOS. It is one of the most important documents on all aspects of fisheries. It sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity.

39. In February 1999 COFI (Twenty-third Session) made an urgent appeal to those States which had not yet ratified the Compliance Agreement to consider doing so as soon as possible and suggested that additional steps might need to be considered by FAO to address the issue of IUU fishing. In March, shortly after COFI meeting, the FAO Ministerial Meeting on Fishing was held in Rome and resulted in the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries. The Declaration made a direct reference to IUU fishing stating that FAO “will develop a global plan of action to deal effectively with all forms of illegal, unregulated and unreported fishing including fishing vessels flying flags of convenience”.

40. FAO initiated in (a) consulting with regional fishery management organizations to review the activities they have taken to address IUU fishing, (b) cooperating with the Government of Australia in convening an expert consultation to identify suitable measures to combat IUU fishing, and (c) convening a technical consultation on IUU fishing. In 2000 the Expert Consultation on Illegal, Unreported and Unregulated (IUU) fishing organized by the Government of Australia in cooperation with FAO was held in Sydney, Australia. A draft International Plan of Action (IPOA) on IUU fishing was elaborated by the Consultation. This document formed the basis for negotiations at Technical Consultations held at the FAO Headquarters in Rome in October 2000 and February 2001. The IPOA on IUU fishing was adopted by COFI in 2001 and was endorsed by the FAO Council in June 2001.

41. The text covers all aspects of IUU fishing, including a comprehensive definition of IUU, the nature and scope of IUU, the objectives and principles, the implementation of the measures and the responsibilities of flag, port and coastal States. It contains an entire section on RFBs, reinforcing the provisions of all post-UNCED instruments. It specifically requires certain actions to be taken by RFMOs

and at national level. COFI is to monitor the implementation of the IPOA to combat IUU fishing (as it does already with other IPOAs) in the context of the Committee's deliberations relating to the implementation of the Code of Conduct for Responsible Fisheries.³⁰

42. The result of these concerted efforts was the Rome Declaration on IUU fishing by the FAO Ministerial Meeting on Fisheries in March 2005. The Declaration is based on the rules and principles of international law as reflected in the provisions of UNCLOS, UNFSA, the Compliance Agreement as well as other international instruments.³¹ The preamble refers to the 2001 FAO IPOA-IUU fishing as well as the Resolution on IUU Fishing adopted by the FAO Conference in 2003, stressing that it is desirable to move from words to actions through full implementation of various international instruments for sustainable fisheries adopted or enacted in the past decades. It also notes the harmful and worldwide consequences of IUU fishing on the sustainability of fisheries, emphasising the responsibility of flag States to effectively control and manage vessels flying their flag as well as that of port and coastal States to control IUU fishing. The Declaration makes it clear that “Effective fisheries monitoring, control and surveillance (MCS) is essential to combat IUU fishing and that integrated MCS, including vessel monitoring systems (VMS), as well as a comprehensive global record of fishing vessels within FAO, are key tools in this endeavour”. It also called for the development of a comprehensive record of fishing vessels within FAO, including refrigerated transport vessels and supply vessels given their frequent involvement in IUU activities.

43. Section 5 of the Declaration states that there is a need for flag States, port States and RFMOs to effectively regulate trans-shipment in order to combat IUU fishing activities and to prevent laundering of illegal catches. It goes on to say that there is a need to strengthen RFMOs in order to ensure that they are more effective in preventing, deterring and eliminating IUU fishing. All States are urged to supply detailed information on fishing vessels flying their flag to the relevant RFMO.

44. At its Twenty-seventh session in 2007, COFI directed FAO to further develop the concept of a Global Record (GR) through the convening of an Expert Consultation. The Expert Consultation on the Development of a Comprehensive Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, (EC-GR) was held in Rome in 2008 to systematically evaluate the feasibility of a global record, its scope, criteria for inclusion in the record, goals of the record, the sources of data and how to obtain accurate, comprehensive and current data, the need for a unique vessel identifier, and the special needs of developing countries. The

³⁰ For more detailed information see International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing. Rome, FAO. 2001.

³¹ They are: the 1992 Rio Declaration on Environment and Development and Chapter 17 of Agenda 21; the 2000 United Nations Millennium Declaration and Millennium Development Goals; and the 2002 Johannesburg Declaration on Sustainable Development; the Johannesburg Plan of Implementation and the adoption of the Code of Conduct for Responsible Fisheries in 1999.

Consultation envisaged the GR as a portal underpinned by a global database where information from many sources will be gathered and stored in one location, making it a one-stop shop for fishing vessel related information.

45. Following the endorsement of the FAO Model Scheme on Port State Measures to Combat IUU Fishing by COFI in 2005, an agreement on Port State Measures was developed by FAO between 2006 and 2009. The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was approved by the FAO Conference at its Thirty-sixth Session in 2009.

46. The main objective of the Agreement as set out in Article 2 is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. In addition to its more common and general meaning, the term “port” has been defined to include “offshore terminals and other installations for landing, trans-shipping, packaging, processing, refuelling or resupplying”. Parties to the Agreement are required to cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations. The collaboration by the RFMOs includes providing information concerning the measures adopted by such regional fisheries management organizations in their area of competence.

47. FAO has prepared a range of information tools supporting the implementation of the Port State Agreement:

- public portals to disseminate consolidated information required for the implementation of the Agreement including: a list of national contact points, list of designated ports to which vessels may request entry pursuant to this Agreement, and list of measures of decisions adopted and implemented by relevant regional fisheries management organizations in relation to this Agreement;
- communication mechanisms to allow direct electronic exchange of information among relevant national authorities, with due regard to appropriate confidentiality requirements; and
- a range of tools to facilitate implementation of the Agreement by the States, especially developing States, both as port States and flag States, including supporting internal and external information exchange, field operations and reporting.

3. EU

48. The EU is the largest market for fish and importer of fishery products in the world.³² It has been an active partner and participant in various activities by FAO and the RFMOs in developing strategies to combat IUU fishing. The International Plan of Action adopted by the FAO in 2001 was widely recognized as an appropriate and effective tool by the UN General Assembly, OECD, and the RFMOs. The European Community adopted its own Action Plan against IUU fishing in 2002 as part of the Common Fisheries Policy. The main measures and initiatives adopted by the EU were designed to address the problems associated with IUU fishing at Community level, at Regional level and at International level.

49. At Community level the objectives were to discourage Community Member State nationals from flagging their fishing vessels under the jurisdiction of a State which is failing to fulfil its flag State responsibilities and from committing infringements. At Regional level the objectives are to secure the adoption by each regional fisheries organisation of a framework plan for control and inspection, at sea and/or in port, and, where appropriate, an observer plan tailored to the fishing characteristics of each one. At International level the objectives were to give binding effect to various instruments approved at international level for the (responsible and/or) sustainable management of fish stocks, using for that purpose certain trade policy instruments.

50. In 2004 the EU adopted Council Regulation (EC) No 601/2004, laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources. According to Article 6: “Only those vessels that are equipped and configured so that they can comply with all relevant conservation measures adopted by the CCAMLR shall be eligible to participate in a new fishery”. Chapter V of the Regulations deals exclusively with various aspects of IUU fishing and vessels involved in such activities.

51. The need for a new EU impetus against IUU fishing was highlighted by the European Parliament in 2006.³³ In a communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee entitled “On a new strategy for the Community to prevent, deter and eliminate Illegal, Unreported and Unregulated fishing” the Commission emphasises the danger and threats to sustainable management of marine resources by IUU fishing.³⁴ It refers to the fact that the EU has one of the largest fishing fleets and is also the third catching power and the world's largest market and

³² The second and third largest markets are Japan and the United States.

³³ European Parliament Resolution on the implementation of the EU action plan against illegal, unreported and unregulated fishing, adopted on 15 February 2007 (2006/2225(INI)).

³⁴ See: COM (2007) 601 final.

importer of fisheries products. It points out that illegal fisheries imports into the EU have been estimated conservatively at €1.1 billion a year.

52. The Commission outlines the core elements of a new strategy to ensure that in future, fisheries crime does not pay. The integrated approach for the sustainable use of the oceans which underpins this initiative is shared with the European Marine Strategy and should also be seen as one step forward on the path towards an integrated Maritime Policy for the European Union laid out in the Communication published by the Commission on 10 October 2007.³⁵ The Commission considers that the scope of the EU policy to deter, prevent and eliminate IUU fishing should cover all the infringements defined by the FAO 2001 Plan of Action on IUU fishing. The policy of the EU against IUU, according to the Commission, encompasses fishing activities occurring within EU waters as well as beyond those waters. This policy should be geared towards deterring and punishing the most damaging infringements.

53. The new strategy also makes a very important social statement. It points out that “some firms, who practice illegal fishing, including EU operators, operate substandard vessels flying the flag of states which apply no or very low standards of social protection. As a result, their crews have to endure unacceptable living and working conditions. This in turn undermines efforts to achieve international progress on social standards for fishermen, reflected in the consolidated convention on work in the fishing sector adopted by the International Labour Organisation (ILO) in June 2007”.

54. Proposal for a new EU strategy to deter, prevent and eliminate IUU fishing included :

- Introduction of a new regime governing the access to the Community territory of third country fishing vessels and imported fisheries products. The new regime should be based on the principle that only those fisheries products certified as legal by the flag state concerned are entitled to enter into the Community.
- Entitle the Community to act unilaterally in order to identify and establish black lists of states hosting flags of non compliance and vessels responsible for IUU fishing, and enact trade measures towards them.
- Use all the means at its disposal to encourage Member States and Community nationals to ensure a proper implementation of the current CFP framework.
- Approximation at EU level of maximal levels of sanctions corresponding to serious infringements to the rules of the CFP.
- Stricter control and enforcement measures against Community nationals responsible for IUU fishing beyond Community waters.
- At international level, the Commission proposes that the EU substantially contributes to the multilateral efforts carried out, notably within the FAO, to put in place a global register of fishing vessels, an international network dedicated to MCS activities and to promote mutual assistance with third countries to combat IUU fishing.
- At Community level, coordination between and within Member's States control authorities should be improved via the activities of the CFCA.

³⁵ See: COM (2007) 575 (the "Blue Paper").

- Consolidate, render more operational and expand measures against IUU fishing in the 13 RFMOs to which the Community is Party and promote coordination between those organisations.
- Confirm and intensify the financial support of the Community to coastal developing countries in order to improve the management and monitoring of fishing activities in their waters and by their vessels; further assess the consequences of the IUU regulation on developing countries and the need and cost of accompanying measures.
- Promote a broad and rapid ratification of the ILO consolidated convention on work in the fishing sector as well as of international conventions relating to safety of fishing vessels, including by exploring the possibility to incorporate these conventions into Community law.

55. The new EU regulations establishing a Community System to prevent, deter and eliminate illegal, unreported and unregulated fishing was introduced on 29 September 2008.³⁶ The new regulation entered into force on 1 January 2010. The regulation requires imports of fishery products from outside the European Community (except freshwater and aquaculture products, and some bivalves) to be accompanied by a catch document, which certifies that the shipment was caught in compliance with the laws of the flag State of the harvesting vessel. Certain information must be validated by the flag State including fishing authorization, quantity and species on board and to be offloaded, and area where caught or transhipped.

56. As far as the scope of the 2008 regulation is concerned, it applies to all IUU fishing activities in any waters where they are connected to the European Community through trade flows, the flag of the fishing vessels, or the nationality of the operators. The aim is to prevent, deter and eliminate all trade of fishery products into the Community when such products have been obtained from IUU fishing or when Community nationals have been involved in such activities, regardless of where the infringement has occurred. The regulation applies equally to fish landed as well as to fishery products imported by containers into the Community. Prior notification and declaration of landings and shipment are required by the third country. Third country fishing vessels will only be able to access ports, port services, and undertake landings at designated ports.

57. Article 3 of the 2008 regulation states that a fishing vessel is presumed to be engaged in IUU fishing if it:

- Does not hold a valid fishing licence
- Does not provide or record catch data
- Fishes in a closed area
- Fishes unauthorised species
- Uses prohibited or non-compliant fishing gear
- Falsifies or conceals its identity
- Falsifies or conceals evidence relating to an investigation
- Obstructs the work of inspectors
- Takes on board, tranships or lands undersized fish
- Participates in activities with vessels included in the IUU vessel list

³⁶EC No 1005/2008 of 29 September 2008. It amended Regulations EEC No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealed Regulations (EC) No 1093/94 and (EC) No 1447/1999.

- Carries out fishing activities in an area covered by a RFMO without complying with the conservation and management measures of that organisation and is flagged to a State not party to that organisation, or not cooperating with that organisation
- Is a stateless vessel

58. All transshipments between third country vessels or between these vessels and EU fishing vessels will be prohibited in Community waters. Transshipments may only take place in designated ports. Outside Community waters, EU fishing vessels may only tranship at sea from third country vessels if those vessels are registered as carrier vessels under a RFMO. All imported fishery products will need to be accompanied by a catch certificate and catch certificates will need to be validated by the relevant competent authorities of the flag state of the catching vessel, certifying that the catches have been made legally. The Commission will specify those RFMOs whose catch documentation schemes will be acceptable under this regulation. A list of these RFMO catch certificates, which can be used as an alternative to the IUU catch certificate, will be published.

59. In addition, the 2008 regulation contains detailed provisions on all aspects of IUU fishing including designated ports, port inspections, catch certificates, IUU vessel list and list of non-cooperating third countries, and sanctions.

60. In 2009 the EU adopted two more regulations in relation to the regulation adopted in 2008. The first (EC) No 1010/2009 adopted in October 2009 lays down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. This regulation provides detailed clarifications of the provisions of the 2008 regulation. The second regulation (EC) No 1224/2009, adopted in November 2009 establishes a Community Control System for ensuring compliance with the rules of the common fisheries policy.³⁷ Article 1 of the regulation on Community Control System clarifies the subject matter of the regulation by stating that the regulation establishes a Community system for control, inspection and enforcement (hereinafter referred to as Community control system) to ensure compliance with the rules of the common fisheries policy. And Article 2 defines the scope of the regulation as applying (a) to all activities covered by the Common Fisheries Policy carried out on the territory of Member States or in Community waters or by Community fishing vessels or, without prejudice to the primary responsibility of the flag Member State, by nationals of Member States. It goes on to state that activities within maritime waters of the overseas territories and countries referred to in Annex II of the Treaty shall be treated as taking place within maritime waters of third countries.

³⁷ amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006

61. The regulation has 32 definitions in addition to those included in (EC) No 2371/2002. The regulation is a comprehensive document describing every aspect of the CFP in relation to IUU fishing including the following subjects:

- Relationship with international and national provisions (Art.3)
- General principles (Art. 5)
- Fishing licence (art. 6)
- Fishing authorisation (Art. 7)
- Marking of the fishing gear (Art. 8)
- Vessel monitoring system (Art. 9)
- Automatic identification system (Art. 10)
- Vessel detection system (Art.11)
- Transmission of data for surveillance operations (Art. 12)
- New technologies (Art. 13)
- Completion and submission of the fishing logbook (Art. 14)
- Fishing vessels not subject to fishing logbook requirements (Art. 16)
- Prior notification (Art. 17)
- Authorisation to access to port (Art. 19)
- Transshipment operations (Art. 20)
- Completion and submission of the transshipment declaration (Art. 21)
- Completion and submission of the landing declaration (Art. 23)
- Monitoring of fishing effort (Art. 26)
- Notification of fishing gear (Art. 27)
- Fishing effort report (Art. 28)
- Recording of catches and fishing effort (Art. 33)
- Fishing capacity (Art. 38)
- Transshipment in port (Art. 42)
- Designated ports (Art. 43)
- Fishing gear (Art. 47)
- Recreational fisheries (Art. 55)
- Principles for the control of marketing (Art. 56)
- Measures to ensure compliance (Art. 89)

62. In 2010, the EU adopted Regulation 468/2010, establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (amended by 724/2011). The 2010 Regulations, in accordance with Article 27 and 30 of Regulation (EC) No 1005/2008, establishes a vessels list of all the fishing vessels engaged in IUU fishing. The EU has concluded two agreements concerning IUU fishing. The first agreement, with the US, was signed on 12 December 2011. The agreement includes a system to exchange information on IUU activities. It promotes management measures through RFMOs that strengthen the control, monitoring and enforcement of vessels' operation within certain areas. It invites other countries to ratify and implement the FAO Port State Measures Agreement. The agreement promotes the sustainable use of fisheries resources while preserving marine biodiversity. Both Parties are active members of many RFMOs and promote international instruments to address IUU fishing.

63. On 11 July 2012 EU and Japan signed an agreement to cooperate to combat IUU fishing. The EU and Japan rank first and second, respectively, as the world's top seafood importers. They have now agreed that the seafood they import will not be

caught illegally. They stated that “Globally, IUU fishing deprives honest fishermen and coastal communities of up to \$23 billion worth of seafood and seafood products annually”. They also stated that IUU fishing threatens sustainability of fish stocks. The agreement commits the parties to:

- Systematically exchange information on IUU activities
- Promote, in regional fishery management organisations they belong to, management measures that strengthen control, monitoring and enforcement on vessels operating within a given areas
- Encourage other countries to ratify and implement the Port State Measures Agreement of the United Nations Food and Agriculture Organization’s Committee on Fisheries
- Promote the sustainable use of fisheries resources while preserving marine biodiversity.

4. RFMOs

64. Prior to the adoption of the 1958 Geneva Convention on “Fishing and Conservation of the Living Resources of the High Seas”, there was no international legal framework to determine the rights and duties of States in relation to high seas fisheries. The commissions and committees established to regulate fishing in some areas were never intended to tackle the problems of management of the resources beyond making recommendations, the adoption of which was entirely at the discretion of States concerned.³⁸ Conservation did not include management of the resources, which by definition would have to overcome the contentious and politically sensitive issue of allocation.

65. The creation of the United Nations was perhaps the most important factor in relation to the changes that followed. The new organisation assumed significant authority in matters related to international law. The establishment of FAO in 1946 with a mandate to deal with many aspects of fisheries took away the authority which had been exercised by a few maritime powers since the middle ages. Between 1946 and 1958 FAO played a significant role in promoting international awareness concerning the conservation of fisheries resources.³⁹

66. The 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas stated that “the problems involved in the conservation of the living resources of the high seas is such that there is a clear necessity that they be solved” and goes on to say that all States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary

³⁸ There were 13 fishery bodies at the time of the adoption of the 1958 Geneva Conventions. Only the following organizations are still functioning although the terms of reference or the treaty establishing them have fundamentally changed: International Pacific Halibut Commission, International Council for the Exploration of the Sea, Inter-American Tropical Tuna Commission, and General Fisheries Council for the Mediterranean. Others were either dissolved or replaced by new commissions.

³⁹ See FAO Rome Conference of 1955. Perhaps one of the most important points discussed during the 1955 Conference was the theory of Precautionary Principle, see: Geoffrey L. Kesteven and Sidney J. Holt, “Classification of International Conservation Problems”, A/CONF.10/7, PP350-361.

for the conservation of the living resources of the high seas.⁴⁰ The term “management” was not even mentioned in the Convention.

67. The RFMOs have long witnessed the many aspects of illegal fishing in the areas and in respect of species for which they have a mandate for conservation and management. The illegal activities have been performed on small as well as large scale, by members of the RFMOs as well as by non-members. Many of these organizations have had their mandates rewritten since the adoption of 1982 UNCLOS and more specifically since the question of responsible fishing has emerged.

68. Often the RFMOs have been criticized at international conferences and scathing remarks have frequently been made about their ineffectiveness. While it is true that almost all of the RFMOs responsible for the conservation and management of the high seas fisheries have failed, this failure cannot and should not be blamed on these organizations. The effectiveness of any RFMO depends on the extent of support it receives from its members. The annual reports and the details of the proceedings and decision making of almost every RFMO bear witness to the failure of their members and not on the organizations themselves. The structure of these organizations often consists of a very limited number of professionals who form the secretariat of these organizations.

69. Since the adoption of 1982 UNCLOS, the role of regional fishery bodies has been the subject of frequent discussions at various international conferences on fisheries. COFI has often called on regional fishery bodies to be more effective and has regularly discussed strengthening them in order to perform properly.⁴¹ In 1984 FAO World Conference on Fisheries Management and Development emphasised the importance of supporting the regional fishery bodies if problems of conservation and management were to be addressed properly.

70. Demands for RFMOs to be more effective in the conservation and management of the high seas fisheries have become more frequent and more urgent in the past twenty years. As the state of world fisheries continues to deteriorate, the main focus on addressing the problems causing this deterioration is on the RFMOs, most of whom are responsible for the management of many overexploited and near depletion fishery stocks. The call for proper and effective conservation and management by RFMOs has come in a number of international instruments including:

- Cancún Declaration on Responsible Fishing, 1992, the UNCED, 1992,
- FAO Technical Consultation on High Seas Fishing, 1992
- The FAO Compliance Agreement, 1993,
- FAO Code of Conduct for Responsible Fisheries, 1995,

⁴⁰ The Convention recommended negotiations and cooperation between States whose nationals were engaged in the fishing in the same area.

⁴¹ Since 1997, COFI has repeatedly called on RFMOs to be more effective and has asked the members of these organizations to be more committed to their work by adopting their recommendations as well as adequately supporting them financially. A distinction has been made recently between Regional Fishery Management Organizations (RFMOs), whose mandates include management, and Regional Fishery Bodies (RFBs) whose mandates are essentially of an advisory nature.

- Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA), 1995
- Rome Consensus on World Fisheries, 1995,
- The 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing (IUU)
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009
- International Guidelines on Bycatch Management and Reduction of Discards, 2011

71. The international attention and focus on IUU fishing gave rise to a more serious examination of the role of RFMOs in relation to this continuous and serious threat. The measures included in the IPOA on IUU fishing by FAO, outlined specific measures to be adopted at various levels in order to prevent, deter and eliminate illegal fishing. In implementing the IPOA the responsibilities of States include: ratification of international instruments, national legislation relating to States' control over their nationals, Vessels without Nationality, Non Cooperating States, Monitoring, Control and Surveillance, National Plans of Action, Cooperation between States, Flag State responsibilities (Record of Fishing Vessels, Authorization to Fish) and there are further provisions on coastal States measures and port State measures. It also includes provisions on internationally agreed market related measures and research. The final part of the IPOA on IUU fishing refers to specific measures to be taken by RFMOs

72. Paragraphs 78-84 of the IPOA refer to compliance by States in relation to the measures adopted by the RFMOs. Some of these measures had been previously referred to in other international instruments, particularly those adopted since 1982. The list in the IPOA is long and very comprehensive; it is designed to be effective by naming and shaming as well as by closing all the loopholes which have been used by both members and non-members of RFMOs. They include:

- States should ensure compliance with and enforcement of policies and measures adopted by the relevant RFMO to which they are members
- Both members and non-members of a RFMO should cooperate, agree and implement the conservation and management measures adopted by that organization
- States should take action to strengthen and develop innovative ways to prevent, deter, and eliminate IUU fishing. Consideration should be given to including the following measures:
 - institutional strengthening of relevant regional fisheries management organizations so it can combat IUU fishing
 - development of compliance measures
 - development and implementation of comprehensive arrangements for mandatory reporting
 - establishment of and cooperation in the exchange of information on vessels engaged in or supporting IUU fishing
 - development and maintenance of records of vessels fishing legally and those fishing illegally
 - development of methods of compiling and using trade information to monitor IUU fishing,
 - development of MCS, including real time catch and vessel monitoring systems, monitoring of landings, port control, and inspections and regulation of

- transshipment, as appropriate; and monitoring of landings, port control, and inspections and regulation of transshipment, as appropriate
- development of boarding and inspection regimes, observer programmes and action plans
- estimates of the extent, magnitude and character of IUU activities in the area of competence and details of measures taken to deter, prevent and eliminate IUU fishing and
- records of vessels authorized to fish, and records of vessels engaged in IUU fishing.

73. The subject of a comprehensive review of the work of the RFMOs was first referred to during the twenty-sixth session of COFI in 2005.⁴² In 2007 COFI stated that there was a need for RFMOs to undertake a performance review in order to (a) strengthen the organizations and (b) improve their future performance. It was generally agreed that there was a need to strengthen these organizations and increase their effectiveness. Since 2007 many RFMOs have carried out performance reviews in relation to their mandates.⁴³ Since the adoption of the IPOA on IUU fishing, the RFMOs have been considered as the most appropriate authorities (with the cooperation and commitment and help of their members) to implement many of the requirements of the Plan.

74. CCAMLR, GFCM, NEAFC, and NAFO have adopted port State measures to be applied by their members, including prohibition of entry and use of port services, landing and transshipment to vessels identified by those RFMOs as engaged in IUU fishing. In October 2008, the CCSBT adopted MCS related resolutions for a Catch Documentation Scheme (CDS) which includes tagging of individual southern bluefin tuna, a Vessel Monitoring System (VMS) and a transshipment monitoring program. The VMS measures adopted by CCAMLR, ICCAT, IOTC and WCPFC, requires that vessels engaged in fishing in their areas of competence follow the VMS measure of the relevant RFMO. The CCSBT has trade restrictive deterrents to IUU fishing in that Members and Cooperating Non-Members may not accept southern bluefin tuna that was taken by a vessel that is not on the CCSBT's list of authorized vessels.⁴⁴

75. A number of RFMOs have adopted measures against IUU fishing including:

- Catch documentation/certification schemes (CCAMLR, CCSBT, ICCAT)
- Trade documentation schemes (CCSBT, ICCAT)
- Trade sanctions (ICCAT, CCSBT)
- Port State control (CCAMLR, FFA)
- Improved MCS measures by Contracting Parties (NASCO)
- Surveillance systems, VMS (CCSBT, FFA)
- Coordination of surveillance in international waters (NASCO)
- Aerial and maritime surveillance (FFA)

⁴² See: Paragraph 112 of the FAO Fisheries Report No. 780, Report of the Twenty-sixth session of Committee on Fisheries, 2005.

⁴³ For example CCAMLR (2008), GFCM (2011), SPFFA (2010), ICCAT (2008), NAFO (2010), NEAFC (2006), IOTC (2009), NASCO (2012), and CCSBT (2008).

⁴⁴ For a comprehensive account of RFMOs response to IUU fishing see: Judith Swan, International action and responses by Regional Fishery Bodies or Arrangements to prevent, deter and eliminate illegal, unreported and unregulated fishing, *FAO Fisheries Circular* no. 996, Rome, FAO, 2004.

- Fisheries observers (FFA)⁴⁵

76. An important tool which has been employed by a number of RFMOs is the IUU Listed Vessels or Blacklisting of the fishing vessels operating in their areas of competence under flags of non-members. These are the fishing vessels of non-members of the RFMOs which are sighted to have been engaged in fishing activities within a Convention Area unless its flag state has been accorded the status of co-operating non-member. NEAFC introduced blacklists of vessels from non-Contracting Parties, which undermine the effectiveness of its regulations, in 2005.⁴⁶ Other RFMOs who have adopted blacklist/IUU list include NAFO⁴⁷, ICCAT⁴⁸, I-ATTC⁴⁹, IOTC⁵⁰, WCPFC⁵¹, CCAMLR⁵², CCSBT⁵³, and GFCM.⁵⁴

77. The measures adopted by some RFNOs to prevent, deter and eliminate IUU fishing can be regarded as having an impact on “illegal” activities as described by IPOA against IUU fishing. The “unreported” and “unregulated” activities still continue to undermine the conservation and management measures adopted by many RFMOs. As was the problem even before the adoption of 1982 UNCLOS and subsequent agreements and declarations, flag States and port States have not properly and effectively discharged their obligations under international fisheries law. One of the most important factors in the continuation of these activities is the existing disparity in the social welfare of fishworkers. Many fishing operators are engaged in illegal employment of fishworkers who do not have any legal social protection. These are the operators who are also engaged in IUU fishing. A fishworker who has a proper employment contract which recognizes and protects his rights by law is less likely to commit an act which is described as a crime by the same legislation which protects him.

⁴⁵ See: CCSBT: Report of Performance Review Workshop 3-4 July 2008, CCAMLR: Performance Review Panel Report, 2008, GFCM: Performance Review, 2011, ICCAT: Report of the Independent Review, 2008, IOTC: Report of the IOTC Performance Review, 2009, NAFO: Performance Review, 2010, NASCO:

External Performance Review, 2011, NPAFC: Performance Review Panel, Report, 2010, NEAFC: Performance Review, Panel Report, 2006, WCPFC: Recommendations from the WCPFC Performance Review, 2012. See also Aranda M., de Bruyn P., Murua H. 2010. A report review of the tuna RFMOs: CCSBT, IATTC, IOTC, ICCAT and WCPFC, EU FP7 project n° 212188 TXOTX.

⁴⁶ See <http://www.neafc.org/system/files/COFI%2028%20report%20AM.pdf>

⁴⁷ <http://www.nafo.int/fisheries/frames/fishery.html>

⁴⁸ <http://www.iccat.int/en/IUU.asp>

⁴⁹ <http://www.iattc.org/VesselRegister/IUU.aspx?Lang=en>

⁵⁰ <http://www.iotc.org/English/iuu/search.php>

⁵¹ <http://www.wcpfc.int/vessels#IUU>

⁵² <http://www.ccamlr.org/en/compliance/non-contracting-party-iuu-vessel-list>

⁵³ http://www.ccsbt.org/site/authorised_vessels_and_farms.php

⁵⁴ <http://www.gfcm.org/gfcm/topic/166233/en>

PART III The Concept of Decent Work

1. Background

78. The concept of “decent work” is enshrined in the ILO Constitution which was adopted in 1919.⁵⁵ The ILO Constitution states that the existing conditions of labour for a large number of people amount to injustice, hardship and privation which need to be addressed urgently. The objectives of the ILO, as referred to in its Constitution were further reiterated and more clearly defined in the Declaration of Philadelphia in 1948. These objectives form the very concept of “decent work” and include: full employment and the raising of standards of living; policies regarding wages and earnings, regulation concerning hours and conditions of work; a minimum living wage; right of collective bargaining, the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care; adequate protection for the life and health of workers in all occupations; provision for child welfare and maternity protection; and the assurance of equality of educational and vocational opportunity.⁵⁶ In 1948, the General Assembly of the United Nations adopted Resolution 217A (III) entitled: “International Bill of Human Rights, A Universal Declaration of Human Rights”. Articles 22, 23, 24 and 25 of the Declaration include provisions which are closely identifiable as those included in the Constitution of the ILO and reiterated in the Declaration of Philadelphia.

79. In 1966 the General Assembly of the UN adopted Resolution 2200 (XXI) entitled “International Covenant on Economic, Social and Cultural Rights”. It stressed that one of the purposes of the United Nations is to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.⁵⁷ The Covenant entered into force in 1976. So far 160 countries have ratified the Covenant including 18 Mediterranean countries.⁵⁸ Articles 6, 7, and 8 of the 1966 Covenant include provisions which are almost identical to those included in the ILO Constitutions and the General Assembly’s Universal Declaration of Human Rights in 1948.⁵⁹

80. Article 7 of the Covenant is particularly clear about the rights of workers by stressing the right of everyone to the enjoyment of just and favourable conditions of work. The workers should *inter alia* receive fair wages and equal remuneration for work of equal value, a decent living for themselves and their families, safe and healthy working conditions, rest, leisure and reasonable limitation of working hours

⁵⁵ The original text of the ILO Constitution was adopted in 1919. It has been amended in 1922, 1945, 1946, 1953, 1962 and 1972.

⁵⁶ The Declaration of Philadelphia is an integral part of the ILO Constitution.

⁵⁷ Articles 1 and 55 of the Charter

⁵⁸ Turkey, Tunisia, Syria, Spain, Slovenia, Montenegro, Malta, Libya, Lebanon, Israel, Greece, France, Egypt, Cyprus, Croatia, Algeria, Albania -Italy ratified it in 1978).

⁵⁹ International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. The Convention entered into force on 3 January 1976.

and periodic holidays with pay. And according to Article 8 they have the right to form trade unions and join the trade union of his choice. State should recognize the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations.

81. The Declaration on Fundamental Principles and Rights at Work was adopted at the 86th Session of the International Labour Conference in 1998. It reaffirms the fact that Organization was founded in the conviction that social justice is essential to universal and lasting peace and that it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application. By freely joining the ILO, member States have endorsed the principles and rights set out in the Organization's Constitution and in the Declaration of Philadelphia. It further stated that member States have undertaken to work towards attaining the overall objectives of the Organization. These principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

82. The 1998 Declaration states that all Members, even if they have not ratified the Conventions in question, have an obligation to promote and to realize, in good faith the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.

83. The four principles enshrined in the ILO Constitution and referred to by other international instruments including the Declaration of Philadelphia (1946), A Universal Declaration of Human Rights (1948), and the International Covenant on Economic, Social and Cultural Rights (1966), form the entirety of the concept of "decent work". The expression "decent work" has come to represent the four fundamental principles often referred to in ILO documents.

2. Definition of decent work

84. In his report to the 87th Session of the International Labour Conference in 1999, the Director General of the ILO stated that the primary goal of the ILO is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. The Report stated that:

Decent work is the converging focus of all its four strategic objectives: the promotion of rights at work; employment; social protection; and social

dialogue. It must guide its policies and define its international role in the near future.⁶⁰

The Report goes on to state:

The goal of decent work therefore requires to be pursued through each of the four strategic objectives of the ILO, as well as through a balanced and integrated pursuit of these objectives in their totality. It challenges all the constituents of the ILO alike. Governments, employers and workers have to accommodate their different interests in creative ways to respond to the demand for decent work placed upon them by individuals, families and communities everywhere.⁶¹

85. The definition given by the Director General of the ILO in his Report in 1999 is the first time that “decent work” has been defined. Under the title “Four Strategic Objectives” the Report state that decent work is seen as the synthesis of four strategic objectives:

- achieving universal respect for fundamental principles and rights at work
- the creation of greater employment and income opportunities for women and men
- extending social protection; and
- promoting social dialogue

It is therefore clear that the term “decent work” was adopted by the ILO to encompass its fundamental principles.

3. International Instruments referring to “Decent work”

86. Since the Report of the ILO Director General in 1999, the term “decent work” has been used in a number of international instruments including:

a. ILO

87. The following ILO documents contain frequent references to “decent work”.⁶²

⁶⁰ Decent work for all in a global economy: An ILO perspective: Report of the Director General, 87th Session of the International Labour Conference, 1999.

⁶¹ “The International Labour Organization has merged the four strategic goals of employment promotion, social protection, rights at work, and social dialogue into the over-arching concept of “decent work”. See: <http://www.fao-ilo.org/ilo-dec-employ/en/>

⁶² See also the following ILO documents relating to decent work: ILO: Governing Body doc. GB.274/PFA/9/1, 274th Session, Geneva, Mar. 1999, ILO: Governing Body doc. GB.279/PFA/6, 279th Session, Geneva, Nov. 2000, and ILO: Governing Body doc. GB.277/5/2, 277th Session, Geneva, Mar. 2000 for the ILO Action Plan on Gender Equality and Mainstreaming; and Circular No. 564 of Dec. 1999.

- Report of the Director-General: Reducing the decent work deficit - a global challenge, 2001⁶³
- A Fair Globalization: Creating Opportunities for All, 2004⁶⁴
- Declaration on Social Justice for Fair Globalization, 2008⁶⁵
- ILO/FAO: Guidance on how to address rural employment and decent work concerns in FAO country activities 2010
- ILO Handbook for improving living and working conditions on board fishing vessels, 2010
- Promoting decent work in a Green Economy
- Background Note to Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication, UNEP, 2011
- Unleashing the Potential for Rural Development Through Decent Work: Building on the ILO Rural Work Legacy 1970-2010 2011
- Fundamental principles and rights at work: From commitment to action, 2012

b. UN

88. There are a number of references in various UN documents to decent work including:

- GA Resolution 55/2, United Nations Millennium Declaration of 18 September 2000⁶⁶
- GA Resolution 66/288. The future we want⁶⁷
- World Summit, 2005
- ECOSOC, 2005: The Right to Work
- ECOSOC, 2012: Draft ministerial declaration of the 2012 high-level segment, submitted by the President

89. The world Summit held in New York in September 2005 adopted the 2005 World Summit Outcome. Paragraph 47 “Employment” states that:

⁶³ The report includes the following sections: the goal of decent work in a changing world, Decent work in practice, the economic dividend of decent work, decent work as a universal goal, decent work as an integrated policy framework, and the challenges for governments’ workers’ and employers’ organizations.

⁶⁴ According to the report: “The cornerstone of a fairer globalization lies in meeting the demands of all people for: respect for their rights, cultural identity and autonomy; decent work”, and again that “The highest priority must be given to policies to meet the central aspiration of women and men for decent work”.

⁶⁵ The Declaration makes several references to decent work. It states *inter alia* that in the context of accelerating change the commitments and efforts of Members and the Organization to implement the ILO’s constitutional mandate should be based on the four equally important strategic objectives of the ILO, through which the Decent Work Agenda is expressed.

⁶⁶ Paragraph 20: “We also resolve to promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable and to develop and implement strategies that give young people everywhere a real chance to find decent and productive work.”

⁶⁷ Resolution 66/288, 2012 endorsed the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”. References to decent work are made in the following sections: promoting full and productive employment, decent work for all and social protection, Green economy in the context of sustainable development and poverty eradication, and Sustainable tourism.

“We strongly support fair globalization and resolve to make the goals of full and productive employment and decent work for all, including for women and young people, a central objective of our relevant national and international policies ... We also resolve to ensure full respect for the fundamental principles and rights at work”.

90. The United Nations Economic and Social Council’s Committee on Economic, Social and Cultural Rights (ECOSOC) adopted the Right to Work in accordance with the provisions of Article 6 of the International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI). The Right to Work document makes several important references to decent work. It describes the 1966 Covenant as the most important document on the issue of workers’ rights. Section 7 of the 2005 document states that:

Work as specified in article 6 of the Covenant must be *decent work*. This is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also provides an income allowing workers to support themselves and their families as highlighted in article 7 of the Covenant.

Furthermore, Section 12 (c) states that:

Protection of the right to work has several components, notably the right of the worker to just and favourable conditions of work, in particular to safe working conditions, the right to form trade unions and the right freely to choose and accept work.

91. The implementation of policies at national level should include *inter alia* taking particular account of “the need to eliminate discrimination in access to employment. It must ensure equal access to economic resources and to technical and vocational training, particularly for women, disadvantaged and marginalized individuals and groups, and should respect and protect self-employment as well as employment with remuneration that enables workers and their families to enjoy an adequate standard of living as stipulated in article 7 (a) (ii) of the Covenant”.

92. The ECOSOC Ministerial Declaration of 2012 contains numerous references to decent work including the Ministers commitments “to the achievement of all of the internationally agreed development goals, including the Millennium Development Goals, by, *inter alia*, promoting productive capacities, full and productive employment and decent work for all”.

c. FAO

93. FAO and ILO have a long history of cooperation and collaboration in a number of issues. The two United Nations agencies responsible for agriculture and labour issues are fully committed to:

- combating hunger and poverty by promoting rural and agricultural development strategies that are socially, environmentally and economically sustainable, gender sensitive and equitable
- achieving the Millennium Development Goals (MDGs)
- achieving other internationally agreed development goals, in particular decent work, promoting employment, fundamental rights and principles at work, gender equality, social protection and social dialogue.⁶⁸

d. EU

94. The European Union has been a very staunch supporter of the ILO and its mandate and has encouraged and continues to encourage its members to ratify ILO Conventions and implement their provisions. Many of the ILO Conventions have been incorporated into EU regulations and directives. There are specific references to decent work in the following documents:

- **EU 2004 COM 383:** “The Social Dimension of Globalisation - the EU's policy contribution on extending the benefits to all”
- **EU 2006 COM 249:** “Promoting decent work for all, The EU contribution to the implementation of the decent work agenda in the world”
- **EU COUNCIL 2006 -** “Council Conclusion on Decent work for all”
- **EU 2007 SEC 495:** “Promoting Employment through EU Development Cooperation”
- **EU 2008 COM 412:** “Report on the EU contribution to the promotion of decent work in the world”
- **EU 2012 COM 446:** “Social Protection in European Union Development Cooperation”

95. In a communication on social dimension of globalization in May 2004 the EU Commission states *inter alia*: “Core labour standards and tripartite and bipartite social dialogue to give effect to such policies are seen as a key part of the framework for ensuring a fair globalisation, while recognising that they are a baseline. The final objective should be the creation of dynamic social progress with a view to promoting decent work for all”⁶⁹ It further emphasized that the Commission supports the promotion of core labour standards and the broader goal of decent work and uses trade instruments where appropriate.

⁶⁸ In 2008, FAO and ILO have launched a joint website “Food, Agriculture & Decent Work” (http://www.fao-ilo.org/fao-ilo-home/en/?no_cache=1), one of the few examples of joint thematic website created between the UN specialized agencies. The site aims to give visibility to the collaboration between the organizations and promote the link between the themes of work (and decent work), rural development and food security.

The website provides information and technical documents, encourages interaction between the FAO and ILO staff and with all the parties concerned.

⁶⁹ See: COM (2004) 383 final. Decent work promotion is also included in the cooperation between the European Commission and the ILO, Exchange of letters of 14.05.2001, OJ, C 165, p. 23.

96. In a communication on the EU's contribution concerning the implementation of decent work agenda, the Commission states that prior to the World Summit, 2005, the Commission, the Council and the European Parliament called for the strengthening of the social dimension of globalisation and for the promotion of decent work for all, in accordance with the ILO's strategy in this area.⁷⁰ The Commission stresses that the promotion of decent work has been at the heart of the ILO's policy agenda since the year 2000. In its decent work agenda, the ILO proposes giving all men and women real opportunities to acquire decent and productive work, in conditions of freedom, equity, security and human dignity.

97. In 2006, the Council of the European Union, in its "Conclusions on Decent Work for All" stated that the promotion of employment, social cohesion and decent work for all, are part of the European social policy and the European policy for development. The Council also stressed that in order to strengthen the competitiveness of the EU in a socially sustainable way, it is important to improve productivity by promoting decent work and the quality of working life, including health and safety at work, combining flexibility and security, life-long learning, good working relations, as well as better reconciliation of work and private life. Moreover "combatting gender discrimination and all other forms of discrimination, as well as promoting the social integration of vulnerable groups, are integral parts of the efforts towards decent work".

98. In 2007 the Commission Staff Working Document "Promoting Employment through EU Development Cooperation", makes a number of references to decent work.⁷¹ It states that "To ensure a more balanced distribution of income and resources it is necessary to promote decent work for all". In 2007 EU made a Declaration on Globalization in which it reiterated its position stating that promoting decent work and addressing the problem of communicable diseases and other global health issues also remains crucial and goes on to say that the EU Council reaffirms its commitment with the decent work agenda as a global instrument to promote employment, better labour standards and foster development.

99. In 2008 the Commission Staff Working Document entitled "Report on the EU Contribution to the Promotion of Decent Work in the World" examined the role and the contribution of the EU to decent work. It stated that throughout the world it is part of its efforts to strengthen the social dimension of globalisation, both in the EU and outside, and builds on existing EU initiatives in this regard.⁷² It stresses that "the Commission reaffirms its commitment to promoting the internationally-agreed decent work agenda, including through cooperation with the International Labour Organisation (ILO) and other partners, and the mobilisation of all relevant policies". The report addresses a number of issues including: decent work as an EU

⁷⁰ COM (2006) 249.

⁷¹ SEC (2007) 495.

⁷² COM (2008) 412 final.

commitment, the mobilisation of non-state actors, the EU contribution at international, multilateral and regional level, the mobilisation of EU internal and external policies, and the ratification and implementation of ILO conventions by EU Member States.

100. In a communication on issues related to social protection including decent work the Commission makes the following references to decent work.⁷³

Effective social protection should also include or be closely associated with measures that enable beneficiaries to participate in productive economic activity and employment. The essential role of productive employment and decent work in reducing poverty is clearly set out in the first MDG, as well as the Commission Staff Working Document on Promoting Employment through EU Development Cooperation.

101. The Communication further states:

The EU should support national governments to develop employment programmes, job creation schemes, and support for entrepreneurship. It should also support social dialogue and labour standards in line with the Decent Work Agenda and the provision of social protection in the context of highly informal labour markets, including innovative approaches such as micro-insurance schemes.

⁷³ COM(2012) 446 final

PART IV Rights of Fishworkers under International Legal Instruments

1. ILO Work in Fishing Convention, 2007 (C188)

c. Background

102. The International Labour Organization has a long history in promoting the rights of fishworkers by adopting a number of conventions and recommendations. The ILO's member States, by virtue of being members, are under an obligation to give effect to the conventions and recommendations adopted by the ILO. This obligation becomes more relevant in respect of the conventions which have been ratified by them.

103. By adopting "The Work in Fishing Convention" and "The Work in Fishing Recommendation", 2007, the ILO has brought together and updated its previous conventions and recommendations on the rights of fishworkers.⁷⁴ The new provisions are meant to address the changes which have taken place in the fishing industry and in the labour market in the past 50 years. Before adopting the 2007 Convention the following Conventions had been adopted by ILO specifically in relation to the rights of fishworkers:⁷⁵

- Minimum Age (Fishermen) Convention, 1959, revised by (C112) in 1973
- Medical Examination (Fishermen) Convention, 1959
- Fishermen's Article of Agreement Convention, 1959
- Fishermen's Competency Certificate Convention, 1966
- Accommodation of Crew (Fishermen) Convention, 1966

104. According to the Preamble, the 2007 Convention is adopted because the mandate of the ILO is to promote decent conditions of work. It goes on to say that ILO regards the fishing as a hazardous occupation and the Organization is aware of the need to protect and promote the rights of fishers. The Preamble goes on to state that the ILO regards the existing Conventions as inadequate to address the rights of fish workers.

⁷⁴ The Provisions of the following core ILO Conventions are obligatory on the part of States who have ratified them. These Conventions apply to all workers including fishworkers:

1. Forced Labour Convention, 1930 (No. 29)
2. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
3. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
4. Equal Remuneration Convention, 1951 (No. 100)
5. Abolition of Forced Labour Convention, 1957 (No. 105)
6. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
7. Minimum Age Convention, 1973 (No. 138)
8. Occupational Safety and Health Convention, 1981 (No. 155)
9. Occupational Health Services Convention, 1985 (No. 161)
10. Worst Forms of Child Labour Convention, 1999 (No. 182)

⁷⁵ Until the Work in Fishing Convention, 2007 is ratified and enters into force the provisions of the existing conventions remain in force in respect of those ILO Members who have ratified them.

105. In 1995 the ILO's Governing Body decided to set up a working party on policy regarding the Revision of Standards. The working party was asked to examine the need for revision of all Conventions and Recommendations adopted by the Organisation before 1985 with a view to rejuvenating and strengthening the standard-setting system. After examining the ILO's five Conventions and two Recommendations for the fishing sector, it concluded that some of these Conventions needed revision, while consideration should be given to denunciation of the Minimum Age (Fishermen) Convention, 1959, which had been revised by the Minimum Age Convention 1973 (C138). On 14 June 2007, during the 96th Session of the International Labour Conference in Geneva, the Work in Fishing Convention 2007 (C188) was formally adopted. The Work in Fishing Recommendation, 2007 was also adopted.

2. Rights of Fishworkers under the Provisions of 2007 ILO Convention

106. The objective of the 2007 Convention, as clearly stated in the preamble, is "to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security". The Convention is in Nine Parts and consists of 54 Articles and 3 Annexes. Each Part covers a certain aspect of the fisheries sector. The 2007 Convention is a comprehensive document which addresses all the important issues relating to fishworkers. It has updated the provisions of several old and outdated ILO conventions, as well as introducing new measures which had not been covered previously.

Engagement

107. The Minimum Age (Fishermen) Convention (C112) was adopted by ILO in 1959. It was revised by the Minimum Age Convention (C138) in 1973. The new Convention entered into force in 1976 and States who ratify it automatically denounce the 1959 Convention. Parties to this Convention must pursue national policy to ensure the abolition of child labour and increase the minimum age for admission to employment (Article 1). When ratifying the convention, States should make declarations concerning minimum age for entering into employment in their territories.

108. No one under the age specified in the declaration shall be admitted to employment. Under the provisions of 1973 Convention:

- The minimum age shall not be less than the age of completion of compulsory schooling and not less than 15 years.

- In certain economic circumstances this minimum age, after consultation with the organisations of employers and workers, may be lowered to 14 years.⁷⁶

109. Part III of the ILO 2007 Convention deals with minimum requirements for work on board fishing vessels. The minimum age for working on fishing vessels is 16 years old but this could be reduced to 15 by the competent authority provided that the fisher is no longer subject to compulsory education under the national law and is also engaged in vocational training in fishing (Article 9). The minimum age for activities which jeopardise the health, safety and morals of young person shall not be less than 18 years. These activities are described by national laws or by the competent authority. Fishers under the age of 18 shall not be employed to perform duties at night. An exception to the strict application of this requirement may be made by the competent authority if the prohibition impairs effective training and provided that such training would not have a detrimental impact on the health or well-being of the fisher.

Medical examination and duties

110. The ILO Medical Examination (Fishermen) Convention, 1959 (C113) has been revised by ILO Work in Fishing Convention, 2007, but its provisions remain in force for those States who have not ratified the new Convention. States who ratify the 2007 Convention automatically denounce the 1959 Convention. Article 2 of the Convention states that no person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea, signed by a medical practitioner. The certificate is to be signed by a medical practitioner approved by the competent authority who is also responsible for prescribing the nature of the medical examination and the particulars to be included in the medical certificate.⁷⁷

111. No fishers shall work on board a fishing vessel without a valid medical certificate, attesting to fitness to perform their duties (Article 10). Exemptions may be granted by the competent authority in relation to the application of the general rule after consultations with the representative organisations of workers and the employers, taking into account the safety and health of the fishers. In granting the exceptions, consideration should be given to the size of the vessel, the availability of medical help, evacuation, duration of the voyage, area of operation and the type of fishing operation. Members should adopt laws, regulations or other measures

⁷⁶ Exceptions to the general principles (Article 4) may be made after consultation with the organisations of employers and workers concerned. The ILO Minimum Age Recommendation, 1973 (R146) states that the minimum age should be fixed at the same level for all sectors of economic activity. It stresses that it should be ILO Members' objective to raise the minimum age for admission to employment or work to 16 years. Where the minimum age for employment or work covered by the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.

⁷⁷ There are also ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers. The IMO's International Convention on Standards of Training, Certification and Watch keeping for Fishing Vessel Personnel, 1995 (STCW-F), includes requirements concerning medical fitness for fishing vessel personnel. Italy is not a party to the 1959 Medical examination convention but has ratified the 1995 IMO Convention.

regarding the nature of the medical examination, and the form and content of the medical certificate. The laws, regulations or other measures adopted should specify the frequency of medical examination and the period of validity of the certificate. Fishers are entitled to further examination by a second independent practitioner if they have failed the first test (Article Members should adopt laws, regulations or other measures regarding the nature of the medical examination, and the form and content of the medical certificate. 11).⁷⁸

Contract of Employment

112. The 2007 Convention applies to all fishing vessels of any nature, whether publicly or privately owned, which are engaged in maritime fishing in salt waters. “Fisherman” includes every person employed or engaged in any capacity on board any fishing vessel and entered on the ship’s articles. The Provisions of this Convention do not apply to pilots, cadets, apprentices, naval ratings and other persons in the permanent employment of a government. Articles of agreement must be signed by the owner of the fishing vessel or his representative and by the fisherman or his advisor.

113. The fishermen should sign the agreement according to the conditions prescribed by national law. Such conditions are deemed to have been met if the competent authority certifies that the provisions of the agreement have been laid before it in writing and have been confirmed by both parties. National law must make adequate provisions to ensure that the fisherman has understood the agreement and that it should not contain anything contrary to the provisions of national law. National law should provide safeguards to protect the interests of both the owner of the fishing vessel and the fisherman.

114. National law is to provide measures to ensure that the agreement does not contain stipulations by which parties may depart from the ordinary jurisdiction of the rules (Article 4). Records of employment shall be maintained for every fisherman. These records are kept either by the competent authority or in a manner prescribed by the competent authority. The record of service should be given to the fisherman at the conclusion of every voyage so he can enter it into his service book (Article 5).

115. The agreement may be made for a definite period of time or a voyage and if permitted by national law, it may be valid for an indefinite period. The agreement should state clearly the respective rights and obligations of each of the parties. It

⁷⁸ The Work in Fishing Recommendation, 2007 provides additional provisions to those already in the Convention in relation to the medical examination. Measures taken by ILO members to prescribe the nature of the medical examination should take into consideration the age of the person to be examined and the nature of the duties to be performed. The certificate must be signed by an officially approved medical practitioner. It is imperative that ILO members should take into account the international guidance on medical examination and certification for working at sea including ILO/WHO Guidelines for Conducting pre-sea and Periodic Medical Fitness Examination for Seafarers.

should contain certain particulars including: the surname and other names of the fisherman, date of birth, age and birthplace, the place and the date of the agreement, the name of the fishing vessel, the voyage or voyages to be undertaken and the capacity for which he is employed, the time and the place of reporting for service, the amount of the wage and his share and the method of calculation, the termination of the agreement and any other particulars which may be required by national law (Article 6).

116. An agreement may be terminated by mutual consent of the parties, death of the fisherman, loss or total unseaworthiness of the fishing vessel and any other cause that is provided for by national law. The termination of service or the discharge of the fisherman shall be provided for in national law and the collective or individual agreements referred to in Articles 10 and 11 (Article 9).

Work and Living Conditions

117. Part IV of the Convention (Articles 13-24) puts together a list of requirements which are directly related to the conditions of work on board fishing vessels. Many of these requirements had not been included in the previous ILO Conventions relating to fish workers, while some are in line with the general requirements found in some of the IMO, WHO and FAO documents on the subject of fishery, safety and health. These requirements include manning of fishing vessels, fish workers' hours of rest, the list of crew on board, the fishers' work agreements, fishers' repatriation, recruitment and placement of fishers, and payment of fish workers. ILO Members who ratify the 2007 Convention are obliged to comply with these requirements and implement them through legislation.

118. Such legislation should ensure that fishing vessels flying their flags are sufficiently manned for safe navigation and operation and that the vessel is under the control of a competent skipper. Fishers on board fishing vessels should be given regular and sufficient rest to ensure their safety and health.

119. The general rule referred to in the preceding paragraph is supported by more specific requirements. These can be summarised as:

- (a) A minimum level of manning for safe navigation and operation should be established for fishing vessels of 24 or more metres in length. It should specify the number and the qualifications of fishers required.
- (b) Minimum hours of rest should, after consultation, be provided for fishers working on board fishing vessels which remain at sea for more than three days, regardless of their length. The minimum hours of rest should not be less than ten hours in a 24-hour period and 77 hours in any seven-day period.

120. The fishers' entitlement to hours of rest on fishing vessels which stay at sea for more than three days may be temporarily exempted by the competent authority for limited and specified reasons. If exceptions are invoked, the fishers who have been subjects of such exceptions shall receive compensatory periods of rest as soon as it is practicable. The fishers' period of rest may be altered from those described in paragraph 31(b). Any alternative arrangements should be made by the competent authority after consultation with the representatives of fish workers and employers. Despite these entitlements, the skipper may decide to ask any fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for providing assistance to other boats in distress at sea. Fish workers whose hours of rest have been suspended because of emergency shall receive adequate period of rest as soon as a normal situation is restored.

121. Every fishing vessel should carry a crew list and provide a copy of this list to the authorities on shore prior to departure or communicate it immediately after departure (Article 15). Laws, regulations or other measures should provide that fishers working on board fishing vessels are protected by fishers' work agreements, the terms of which are consistent with the provisions of this Convention as well as the specific provisions listed in Annex II of the Convention.⁷⁹ Such legislation should also provide procedures to ensure that the fisher has the opportunity to review and seek advice on the terms of his agreement before it is concluded. It should also provide means for settling disputes in connection with the terms of the agreement.

122. The fishing vessel owner has the responsibility to ensure that every fisher working on board the fishing vessel has a written fisher's work agreement signed by both fisher and the fishing vessel owner or by an authorised representative of the fishing vessel owner. If fish workers are not employed directly by the owner, the owner should have evidence of contractual or similar arrangements, providing decent work and living conditions on board the vessel as required under the provisions of the Convention.

123. Article 21 of the Convention deals with the issue of repatriation. Members should ensure that fishers on a fishing vessel flying their flags and entering a foreign port are entitled to repatriation if the fishers' work agreements have expired or been terminated by fishers or the owners for justified reasons. This also applies to fish workers who are no longer able to carry out the duties required by the terms of their agreements or who cannot be expected to perform their duties in the specific circumstances, as well as when fishers are, for the same reasons, transferred from the vessels to the ports. The cost of repatriation shall be borne by the fishing vessel

⁷⁹ Annex II entitled "Fisher's work agreement" provides a detailed list of what should be included in the agreement. The list includes fisher's family name and other names, date of birth or age, and birthplace, the place and date of the conclusion of the agreement, the name of the fishing vessel/vessels and the registration number, the capacity for which the fisher is employed, the name of the employer or the fishing vessel owner, the voyage or voyages to be undertaken at the time when the contract is signed, the amount of wages or the amount of share and the method of calculation, and the termination of the agreement.

owner except when the fisher is found to be in serious default of his/her work agreement.

124. National laws or regulations should provide the precise circumstances under which a fisher is entitled to repatriation, including the maximum duration of service on board a fishing vessel and the destinations to which fishers may be repatriated. In case a fishing vessel owner fails to provide for repatriation, the Member whose flag the vessel is flying should arrange for the repatriation and shall be entitled to recover the cost from the fishing vessel owner.

125. Recruitment and Placement is another issue which has now been dealt with for the first time by the ILO in relation to fish workers (Article 22). Any private recruitment and placement service for fishers is required to operate in conformity with a standardised system of licensing or certification established after consultation with the representative organisations concerned. Each Member is required to enact laws, regulations or other measures prohibiting recruitment and placement services from preventing or deterring fish workers from engaging for work. Fishers should not be required to pay any fee if they are placed for work by such services. The laws should also determine the conditions under which any licence, certificate or other kind of authorisation given to a private recruitment and placement service is suspended or withdrawn.

126. The part played by Private Employment Agencies is also covered by Article 22 of the Convention. The Convention provides for certain responsibilities which could be allocated to private employment agencies. This can only be done if the Member has already ratified the ILO “Private Employment Agency Convention, 1997” where the term has been extensively defined in Article 1. It is, however, important to point out that the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations.

127. Articles 23 and 24 deal with the issue of payment to fishers. ILO Members are required to adopt laws, regulations or other measures, providing that fishers who are paid a wage receive their payments on a regular basis and have the means to transmit all or part of their payments to their families at no cost.

Accommodation and Food

128. There are a number of provisions in Articles 25 to 28 which deal with accommodation and food on board fishing vessels. Members are required to adopt laws, regulations and other measures applicable to fishing vessels flying their flag in respect of accommodation, food and potable water. Under these provisions, the accommodation on board fishing vessels should be of sufficient size and quality as well as appropriately equipped according to their operations and the amount of time

fishers live on board. It is imperative that the laws, regulations or other measures should be adopted addressing certain issues. Specific measures in relation to accommodation include: its maintenance in respect of hygiene and overall safe, healthy and comfortable conditions; ventilation, heating, cooling and lighting; mitigation of excessive noise and vibration; and sanitary facilities (Article 26).⁸⁰ The laws should also specify the requirements for the sufficient quantity and quality of food and drink to be carried on board the fishing vessels, the cost of which is borne by the fishing vessels' owners.

Medical Care, Health Protection and Social Security

129. The provisions concerning fishers' medical care, health protection and social security clearly specify the requirements of the Convention by setting out the responsibilities of the governments and the owners of the fishing vessels (Articles 29-39). This is the first time the issues of medical care, health protection and social security have been addressed by the ILO in a single convention in relation to fish workers.

130. ILO Members should adopt legislation requiring that fishing vessels are properly equipped with medical supplies in relation to the service, the voyage, the area of operation and the number of fishers on board. Every fishing vessel should have at least one fisher qualified in first aid and other forms of medical care. The equipment and medical supplies on board the fishing vessel must have adequate instructions or other information in a language and format which can be understood by the fisher or fishers. In case of serious injury or illness, fishers have the right to be taken ashore for medical treatment in a timely manner.

131. Depending on the area of its operation, the duration of the voyage and the number of fishers on board, a fishing vessel of 24 metres or more must comply with a number of requirements prescribed by law. The competent authority is to prescribe the necessary equipment and supplies on board fishing vessels. Such equipment and supplies should be properly maintained and inspected at regular intervals. The vessel should also carry medical guides or the latest edition of the International Medical Guide for Ships. It should have on board adequate equipment to communicate with other vessels at sea so it can receive medical advice if needed.

132. In relation to occupational health and safety and accident prevention, each Member should adopt legislation providing measures regarding the prevention of occupational accidents, diseases and work-related risks on board fishing vessels. They should include the training of fishers to make sure they know how to handle the fishing equipment they are asked to use and the obligation of the fishing vessel owner

⁸⁰ Annex III of the 2007 Convention provides provisions in respect of the measurements to be used for fishing vessel accommodation.

to ensure the safety of fishers under the age of 18. These measures apply to all fishing vessels of 24 metres or more which remain at sea for more than three days. The fishing vessel owners should provide fishers with adequate protective clothing. They should ensure that all the fishers have received basic safety training and are being familiarised with equipment and the methods of operation.

133. The Convention requires that each Member shall ensure that fishers residing in its territory and dependencies are entitled to social security benefits. Since it is clear that few fishing nations have a proper or any system of social security, the Convention requires that its Members should take steps to achieve progressively comprehensive social security protection for all the fishers residing in their territories. The social protection shall, by national law, extend to fishers who suffer from work-related injury, sickness or death. Such protection should include compensation and appropriate medical care.

3. Recent Developments towards Implementation of ILO 2007 Convention

134. On 14 June 2007, during the 96th Session of the International Labour Conference at Geneva, the Work in Fishing Convention 2007 (C 188) was formally adopted. The Work in Fishing Recommendation, 2007 was also adopted. The Convention was signed by 437 votes in favour, two against and 22 abstentions. Work in Fishing Recommendation, 2007 was adopted with 443 votes in favour, none against and 19 abstentions. Since the adoption of the Convention only Bosnia and Herzegovina (4th February 2010) and Argentina (15th September 2011) have ratified the Convention.

135. Since the adoption of the Convention the ILO has been working on a number of issues in order to facilitate the ratification of the 2007 Convention by its members. The effort of the Organization and its future plans are detailed in ILO Action Plan 2011-2016.

c. ILO Action Plan 2011-2016

136. In 2010 ILO adopted an Action Plan to improve the conditions of work of fishers through the widespread ratification and effective implementation of the ILO 2007 Convention (No. 188), and the effect given to the ILO 2007 Recommendation, (No. 199). The purpose of the Action Plan is to set out for the Governing Body, for member States, and for the ILO's social partners and others, what the Office plans to do within the next five years, which is to achieve widespread ratification and implementation of the 2007 Convention as well as giving effect to the provisions of 2007 Recommendation.

137. FAO, IMO, and the EU, as well as the International Organisation of Employers (IOE), International Trade Union Confederation (ITUC), International Transport Workers' Federation (ITF) and International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), and in cooperation with other intergovernmental and nongovernmental organizations, as appropriate are to participate in the Action Plan which runs from 2011 to 2016.⁸¹

138. The reasons for ILO's decision to adopt the Plan of Action is described in the document as:

“More than 30 million people work part time and full time as fishers. It has been estimated that, for each person employed in capture fisheries, there are about four jobs produced in the secondary activities, including post-harvest. Furthermore, each worker on average provides for three dependants or family members. Thus, fishing and those supplying services and goods to them assure the livelihoods of a total of several hundred million people.

139. Work in the fishing sector has many characteristics that set it apart from work in other sectors:

- The harvesting of fish, and other marine resources, takes place in the often-challenging marine environment. The rate of accidents and fatalities can be quite high. In many countries, fishing is considered to be the most hazardous occupation.
- Fishing has long traditions. One of these, found throughout the world, is that of paying fishers on the basis of a share of the catch, which means that fishers are often considered to be “self-employed”.
- Fishers and their families often live in remote communities that offer only limited alternatives for employment and are far away from regulatory oversight.
- Increased globalization of fishing has meant increased complexity in working relationships. The State of registration of the vessel, location of the fishing vessel owner, country of residence of the fisher, and area of operation of the vessel may all be different.
- Many fishers are under economic pressure due to overfishing.

140. The above and other factors call for special considerations for the labour protection of fishers. Yet in many countries, fishers seem to fall through gaps in the system of laws, regulations and other measures that protect other workers, or may be covered by legislation that does not sufficiently reflect the realities of their work. This may create a “decent work” deficit.

⁸¹ The Action Plan began on 1 January 2011.

141. In line with its objective of providing decent work for all, the ILO is seeking to reduce this deficit. ILO is ready to assist members requesting assistance in the implementation of the 2007 Convention in areas such as:

- technical assistance for Members, including capacity building for national administrations as well as representative organizations of fishing vessel owners and fishers, and the drafting of national legislation to meet the requirements of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention;
- national and regional seminars, as well as workshops on the Convention; and
- promoting the ratification and implementation of the Convention within ILO Decent Work Country Programmes.

142. When the ILC adopted the 2007 Convention and Recommendation, it also adopted four resolutions intended to support the promotion, ratification and effective implementation of the Convention and the improvement of decent work in the fishing sector. These resolutions have helped the Office to determine priorities in its follow up activities. They are:

- The resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007, invited the Governing Body to request the Director General “to give due priority to conducting tripartite work to develop guidelines for flag State implementation and to develop guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention”, as well as to give due consideration in the programme and budget for technical cooperation programmes to promote the ratification of the Convention.
- The resolution concerning port State control, invited the Governing Body to convene a tripartite meeting of experts to develop suitable guidance for port State control officers concerning the relevant provisions of the 2007 Convention.
- The resolution concerning tonnage measurement and accommodation invited the Governing Body “to request the Director-General to report to it any developments which may have an impact on the Work in Fishing Convention, 2007 (No. 188), especially on Annex III”, and “to act on such a report by giving due priority, if required, to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in Fishing Convention, 2007 (No. 188), to address the matter with a view to maintaining the relevance of Annex III of that Convention”.

- The resolution concerning promotion of welfare for the fishers invited the Governing Body to request the Director-General to consider the following social issues related to fisheries, as part of its programme and budget including: (a) promotion of the provision of effective social protection and social security to all fishers within the ongoing work of the Organization so as to secure effective social protection for all; (b) the particular employment problems that are faced by women in the fishing industry, including discrimination and the barriers to access to employment in the industry; (c) the causes of occupational diseases and injuries in the fishing sector; (d) the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers' and seafarers' welfare facilities; and (e) the issues relating to migrant fishers.

143. Since the adoption of the 2007 Convention, ILO has been actively involved in a number of projects and programmes associated with the Convention. These include:

- Development of promotional material
- Comparative analysis (gap analysis) of 2007 Convention and national laws and regulations
- Development of guidelines on port State control
- Development of handbook and training material
- Regional seminars
- Technical cooperation projects aimed at specific countries
- Joint FAO–ILO–IMO work related to safety and health of fishers
- Decent Work Country Programmes
- Minimum age/child labour (with FAO)⁸²

144. The Workshop on Child Labour in Fisheries and Aquaculture was held in Rome from 14-16 April 2010. It was organized by the FAO in cooperation with the ILO to generate inputs and guidance to the contents and process of developing guidance materials on policy and practice in tackling child labour in fisheries and aquaculture. It aimed to promote awareness of and effective implementation of the relevant UN and ILO conventions on the rights of the child and child labour. The participants reviewed the nature, incidence and causes of child labour in fisheries, examined the different forms and types of child labour in both large and small-scale and artisanal fishing operations (shellfish gathering, aquaculture, seafood processing, and work on board fishing vessels and fishing platforms), as well as the health and safety hazards of fishing and aquaculture.

145. It was pointed out that child labour often reinforces a vicious cycle of poverty and has a negative impact on literacy rates and school attendance and limits children's

⁸² For details of the Workshop see: FAO Fisheries and Aquaculture Report No. 944

mental and physical health and development. The workshop participants agreed on a series of recommendations relating to legal and enforcement measures, policy interventions and practical actions including risk assessments to address child labour issues in fisheries and aquaculture. The Workshop called on FAO and ILO for priority actions to assist governments in withdrawing trafficked children and to effectively prohibit slavery and forced labour.

d. EU Recommendations

146. It is also important to point out that efforts have been made at EU level to promote decent work for all, as can be seen in the EU document “COM (2006) 249 final”.⁸³ The EU Communication states that the United Nations Summit held at the UN Headquarters in New York in September 2005 endorsed the need for fair globalisation and resolved to include the promotion of productive employment and decent work for all among the objectives of national and international policies. Prior to the Summit, the Commission, the Council and the European Parliament called for the strengthening of the social dimension of globalisation and for the promotion of decent work for all, in accordance with the ILO’s strategy in this area.⁸⁴

147. The EU Communication goes on to state that promoting decent work calls for a consistent and global strategy and that action must be taken to combat the most flagrant abuses of core labour standards. By placing the emphasis on employment, the quality of employment and appropriate social policies, the promotion of decent work is a factor not only in justice and social cohesion but also in economic performance.

148. The Communication stresses that the Commission will work with the ILO, the UN and other organisations to explore in greater depth the problem of decent work, improve the capacity of the partner countries and develop appropriate indicators in order to (a) identify good practice and successes in the field; (b) examine decent work in greater depth and the way in which it interacts with other policies; (c) develop methodologies for measuring how decent work is affected by trade liberalisation and global production and distribution systems at the global level; and (d) assess the impact of trade on decent work.

149. The Communication stressed that the Commission supports the ratification and application of core labour standards and the implementation of decent work country programmes as agreed in the ILO or an equivalent roadmap, in particular in the context of national development strategies. The Commission will cooperate with

⁸³ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Promoting decent work for all, The EU contribution to the implementation of the decent work agenda in the world.

⁸⁴ See: COM(2004) 383; Council conclusions on the social dimension of globalisation, 3.3.2005, doc 6286/05; EP report, A 6-0308/2005 du 15.11.2005; opinion of the EESC of 9.3.2005 and of the Committee of the Regions of 23.2.2005; European Council conclusions of December 2004 and June 2005.

the ILO, the UN and other international organisations to improve analysis and to develop indicators related to the implementation of the decent work agenda.

150. In 2010, the EU Council made a decision “authorising Member States to ratify, in the interests of the European Union, the Work in Fishing Convention, 2007, of the International Labour Organisation (Convention No 188)”.⁸⁵ Paragraph 2 of the Council Decision states that: “The Convention represents a major input to the fishing sector at international level in promoting decent work for fishers and fairer competition conditions for fishing vessel owners and it is therefore desirable that its provisions should be implemented as soon as possible”.

151. The Council Decision further states that the European Parliament, the Council and the Commission are promoting the ratification of international labour conventions that are classified by the ILO as up-to-date as a contribution to the European Union’s efforts to promote decent work for all both inside and outside the Union. It also makes it clear that, according to the ILO Constitution, the ratification of any Convention by any Member is deemed in no case to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation.

152. Under Article 1 of the Council Decision, Member States are authorised to ratify the ILO Work in Fishing Convention, 2007. Article 2 sets a timeframe for the progress of ratification, as well as the actual date for ratification by member States. It states that Member States should make efforts to take the necessary steps to deposit their instruments of ratification of the Convention with the Director-General of the International Labour Office as soon as possible, preferably before 31 December 2012. The Council will review the progress of the ratification before January 2012.

e. Agreement Between European Transport Workers Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) and the General Federation of Agricultural Co-operatives in the European Union (Cogeca), 2012

153. On 21 May 2012, the European Transport Workers’ Federation ETF and the Association of National Organisations of Fishing Enterprises in the European Union Europêche and the General Confederation of Agricultural Co- operatives in the European Union Cogeca signed a Social Partners’ Agreement (SPA) to transpose into EU law the ILO Work in Fishing Convention, 2007 that aims to provide worldwide access to decent working and living conditions for fishermen.⁸⁶

⁸⁵ Council Decision 2010/321/EU of 7 June 2010. See also: COM(2011) 306 final, dated 31 May 2011.

⁸⁶ The ETF represents more than 2.5 million transport workers from 243 transport unions and 41 European countries, in the following sectors: railways, road transport and logistics, maritime transport, inland waterways, civil aviation, ports & docks, tourism and fisheries; Europêche represents the fisheries sector in Europe. Currently, the Association comprises 17 national organisations of fishing enterprises from the following 11 EU Member States: BE, DE, DK, ES, FR, GR, IT, MT, NL, PL, UK; and Cogeca is the united voice of agricultural

154. By signing this agreement, the European social partners have contributed to the systematisation of the social acquis in the fishing sector with the aim of encouraging Member States to ratify the Convention and complete a European and global level playing field on the matter. They also wish to give a strong signal to the governments and fishing sectors of ILO Member States from outside the EU, on the need to ratify the Convention as soon as possible. Moreover, once the Convention will have been transposed into EU law, infringements detected in EU ports and waters will be subject to the rule of the European Court of Justice.

155. The Agreement states that: “The social partners consider this initiative as highly important to encourage Member States to ratify the Convention so as to complete a level playing field in the EU and the rest of the world on matters relating to fishermen’s working and living conditions on board fishing vessels. The social partners consider an agreement as a first step contributing to codification of the social acquis in the fishing sector”.

156. The Agreement further states that the provisions of the ILO 2007 Convention on quality of medical care, accommodation facilities, food, living conditions, compensation in the event of hazards or illnesses, and on social protection should be considered as falling within the scope of the safety and health at work of fishermen having regard to the specificities of work on board a fishing vessel, such as geographical isolation, fatigue and the nature, mostly physical, of the work to be performed.

157. The Agreement states that the proper instrument for implementing the Agreement is a Directive, within the meaning of Article 288 of the Treaty on the Functioning of the European Union TFEU, which binds Member States as to the result to be achieved, whilst leaving to national authorities the choice of form and methods.

158. It further calls upon EU member States to:

- (1) Ratify C188 given the unanimity of Member States at the time of the Convention’s adoption and because of the important differences between the scope of application as well as the areas covered by the Convention on the one hand and this Agreement on the other hand
- (2) Develop a uniform valid document as mentioned in Article 41 of C188 to be implemented throughout the European Union.
- (3) Develop a harmonized policy on port State control of fishing vessels which are subject to C188 to be implemented throughout the European Union, based on the PSC-F Guidelines.

cooperatives in the EU. It also represents the interests of fisheries cooperatives in Europe through its FISH Working Party which it shares with Copa. Currently, the fisheries representatives come from the following 9 countries: DE, ES, FR, GR, IE, IT, MT, NL, SI.

159. Part three of the Agreement contains provisions on minimum requirements for work on fishing vessels. It includes provisions on minimum age⁸⁷ and medical examination. Part four contains provisions on conditions of service including manning, hours of work and hours of rest, crew list, fisherman's work agreement⁸⁸, repatriation and private labour market services.⁸⁹ Part five includes provisions on occupational safety and health dealing with food and accommodation,⁹⁰ health protection and medical care, sickness, injury or death, occupational safety and health and accident preservation. The Agreement has incorporated the ILO provisions without any change.

160. The agreement demonstrates a clear pledge by the European social partners in favour of enhanced working and living conditions of fishermen on board vessels flying EU flags and vessels calling at European ports, regardless of the flag and the nationality of the crew. The agreement will in particular contribute to tightening the legal framework of those Member States whose legislation on fishworkers rights can be regarded as somewhat flawed. By signing the agreement, the European social partners hope to encourage Member States to ratify the Convention, and give the EU an opportunity to have a crucial role in accelerating its entry into force. This would ensure that fishermen worldwide have access to decent working and living conditions.

⁸⁷ This Article applies without prejudice to Directive 94/33/EC. The directive gives legal definitions for the terms "child", "adolescent", "young person", "light work", "working time" and "rest period".

⁸⁸ Provisions on this section are already included in Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (91/533/EEC).

⁸⁹ The provisions of this section are already included in 2008/104/EC on temporary agency work.

⁹⁰ The provisions of this section are already included in the Directive 93/103/EC, directive lays down minimum safety and health requirements applicable to work on board fishing vessels.

PART V Sustainable Fishing and Decent Work

Introduction

161. The conservation and management of the fishery resources of the seas has been a contentious issue for more than 60 years. While there has been a general agreement on the urgent need to address the problems related to the conservation and management of fishery resources, the commitment to take decisive action has been very slow. The issue was discussed at length during the meeting of the International Law Commission in the 1950s and prior to the adoption of the 1958 Geneva Convention on the Conservation of the Living Resources of the High Seas.

162. In 1955 FAO organized “The International Technical Conference on the Conservation of the Living Resources of the Sea”. This was the first international gathering of experts to address the issues related to the conservation of fisheries resources. The Conference addressed many aspects of the conservation of fishery resources for the first time including the theory of *Precautionary Principle*.⁹¹ This principle, ignored at the time and then forgotten for a further forty years, made a dramatic come back in the 1990s.

163. The 1982 UNCLOS addressed a number of very important problems including the territorial sea, the exclusive economic zone, the continental shelf and the seabed, but the arrangements for the conservation and management of the fishery resources of the high seas remained ambiguous. The Convention requires States, in cooperation with each other or through regional fishery organizations, to adopt conservation and management measures in respect of the fishery resources of the high seas. This approach was inadequate, since the problems associated with the conservation and management of the straddling and highly migratory fish stocks remained unresolved.

164. But the events of the 1980s concerning driftnet fishing and the drastic reduction in the populations of many species caused by overfishing in most areas of the seas prompted the international community to address the conservation and management problems more seriously and with some sense of urgency. Sustainable fishing, the preservation of biodiversity, consideration for the environment and the impact of overfishing, and the precautionary approach have become the integral components of conservation and management. These are the principles and standards which are now part of “responsible fishing”.⁹² The conservation and management measures adopted in many areas of the world’s oceans are being undermined by IUU fishing. States and RFMOs are urged to adopt more effective and stringent measures to tackle the problem of IUU fishing. Many international agreements have been

⁹¹ See: Geoffrey L. Kesteven and Sidney J. Holt, “Classification of International Conservation Problems”, A/CONF.10/7, PP350-361.

⁹² See: Article 1 of the FAO Code of Conduct for Responsible Fishing, 1995. It states that “The Code provides principles and standards applicable to the conservation, management and development of all fisheries”.

adopted, while a number of declarations have been made to address the problems of management.

165. The management of fishery resources is a triangle, each point of which represents an important component of management: the fishery resources; the States and RFMOs; and the fishermen. So far almost all the attention has been focused on the first two, ignoring the fact that the most important relationship in this triangle is between the fishery resources and the fishermen. It is safe to say that very little attention has been paid to the importance of this point of the triangle, both at national and international level.

166. Fishing is one of the most dangerous of professions and every year hundreds of fishermen lose their lives in trying to make a living. ILO, as a specialized agency of the UN, is mandated to look after the interests of workers, including fishworkers. It can be argued that until the adoption of the Work in Fishing Convention in 2007, there was very little protection provided for fishermen by ILO. The few Conventions adopted between 1959 and 1966 in respect of fishworkers did not receive widespread approval by ILO members; in fact, it seemed there was no interest in ratifying these conventions.⁹³ And since 1966 when the last ILO Convention concerning fishworkers was adopted, the international law of fisheries has gone through some fundamental changes, some of which had direct relevance to fishworkers' rights. The 2007 ILO Convention is a comprehensive document which addresses the rights of fishworkers in the light of all the changes that have taken place in international law of fisheries, as well as recognising the fundamental rights of all workers, including fishworkers.

1. Decent work concerning fishworkers under international instruments

a. ILO: Decent work and sustainable fishing under ILO Conventions and Recommendations

167. The following instruments/documents/reports contain specific references to decent work in the fishery sector and to sustainable fishing:

ILO: Work in Fishing Convention and Recommendation, 2007: Action Plan 2011-2016

ILO: Promoting decent work in green economy, 2011

ILO: Rural development and decent work, 2011

168. Article 20 of the Convention refers to the responsibility of the fishing vessel owner to make sure that each fisher has a contract of agreement. The owner is

⁹³ Minimum Age (Fishermen) Convention, 1959, (29 ratifications) (revised by (C112) in 1973), Medical Examination (Fishermen) Convention, 1959 (30 ratifications), Fishermen's Article of Agreement Convention, 1959 (23 ratifications), Fishermen's Competency Certificate Convention, 1966 (10 ratifications), and Accommodation of Crew (Fishermen) Convention, 1966 (23 ratifications).

responsible for providing decent work and living conditions on board the vessel as required by this Convention. The Organization adopted an Action Plan to improve the working conditions of fishers through the widespread ratification and effective implementation of the 2007 Convention and Recommendation.

169. Mention should be made of the Project for the Rational and Sustainable Development of the Fishing Sector, funded by Spain since 2007. This project has supported the improvement of social and working conditions of workers in the fishery sector in four countries (Guinea Bissau, Mauritania, Morocco and Senegal) and two Latin American countries (Ecuador and Peru). The project has been under the auspices of the ILO's SECTOR.⁹⁴

170. The ILO's Report *'Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication'* states that "The ILO's aim to provide decent work translates into the adoption of a just transition framework for the construction of a fairer, greener and more sustainable globalization." It goes on to say that "The Green Jobs Programme tackles the issues of climate change, sustainable development and decent work in a more comprehensive way through research and practical assistance in more than 20 member countries. It further points out that "Healthy fisheries support the wellbeing of nations, through direct employment in fishing, processing, and ancillary services, as well as through subsistence-based activities".

171. In 2011, a document entitled "Unleashing the Potential for Rural Development through Decent Work, a number of references are made to the fishworkers and fishing communities. For example the document states that: "An important volume of the ILO's work targeted issues related to working conditions such as occupational safety and health, labour inspection, social security, wages, various employment statuses, including numerous forms of precarious work and informal activities. Research included the impact of key developments in rural contexts. Other valuable research focused on specific agricultural activities including fisheries and their processing, storage and marketing etc... The aim was to promote employment-friendly technological choices in sectoral investment policies and initiatives, improving working conditions and introduce ILO social policy objectives in sectoral economic policies and programmes.

172. The Report makes a specific reference to the working conditions on small scale fishermen:

Given the often challenging working and living conditions of small-scale fishermen and fishing communities, the ILO's work in fisheries has focused on improving labour conditions, particularly as concerns recruitment, minimum age, work agreements, training, systems of remuneration, occupational safety and health, and social security, while taking into account

⁹⁴ This is the ILO's Sectoral Activities Department.

structural and technical changes. Work includes various legal instruments directly related to fishers.

b. FAO Decent work and sustainable fishing under the FAO's international instruments

173. The following instruments/documents/reports contain specific references to decent work in fishery sector and sustainable fishing:

FAO: The 1984 FAO Conference on Fisheries Management

FAO: FAO Technical Consultation on High Seas Fishing, 1992

FAO: FAO Code of Conduct for Responsible Fisheries, 1995

174. The 1984 FAO Conference on Fisheries Management was very clear about the importance of fishworkers' participation in management as well as their well-being. The Report of the 1984 stated that: "The cooperation and participation of fishermen is necessary to ensure the success of small-scale fisheries management schemes. Fishermen's organizations should be considered as a channel through which management decisions can become operative..." The Report goes on to state that: "To ensure the well-being of small-scale fishermen on a sustained basis, it may be necessary... to secure supplementary or alternative sources of income and employment for fishermen so as to reduce pressure on limited fishery resources..."

175. In 1992 FAO organized a Technical Consultation on High Seas Fishing. The Consultation, under the title "Aids to Management and Control", made the following statement:

In order to bring a more responsible approach to safety of life at sea, condition of work and service and protection of the environment, a code of conduct for responsible fishing should address related international conventions concerning *inter alia*: safety of life at sea, safety of navigation and fishing vessel safety.

The consultation further concluded by recommending the review of the conditions of work according to various ILO Conventions.⁹⁵

176. The FAO Code of Conduct for Responsible Fisheries emphasises the importance of fishworkers' rights. Article 6 of the Code, while dealing with General Principles, states that: "effective participation of fishworkers and others...in decision making with respect to the development of laws and policies related to fisheries management, development, international lending and aid", while Article 6.17 urges states to ensure that "all fishing activities allow for safe, healthy and fair working and living conditions".⁹⁶

177. Article 6.6 states that:

⁹⁵ See: paragraph 40 of the FAO Fisheries Report No. 484, 1992.

⁹⁶ Article 6.13 of the FAO Code of Conduct for Responsible Fishing.

Selective and environmentally safe fishing gear and practices should be further developed and applied, to the extent practicable, in order to maintain biodiversity and to conserve the population structure and aquatic ecosystems and protect fish quality. Where proper selective and environmentally safe fishing gear and practices exist, they should be recognized and accorded a priority in establishing conservation and management measures for fisheries.

And Article 8.1.5:

States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

178. Mention should also be made of the discussions during COFI meetings in 2007 and 2009. In 2007, while addressing the issues related to “Social Issues in small scale fisheries,” it made the following references to decent work:

The promotion of human rights is critical for the social development of fishing communities. These rights include legally-mandated rights to decent working conditions...⁹⁷

In 2009, COFI again addressed the issue of decent work while discussing the topic of “Securing Sustainable Small-Scale Fisheries: Bringing Together Responsible Fisheries and Social Development”. It stated that:

FAO and ILO should give priority to ensure decent working and living conditions in small-scale fisheries and seek that the relevant ILO conventions are applied, especially the 2007 Work in Fishing Convention (ILO Convention No. 188). It was also suggested that the working conditions in each country be analyzed and minimum goals be established that can be subject to regular monitoring and reporting.⁹⁸

c. Decent Work and sustainable fishing under other international instruments

The United Nations Conference on Economic Development (UNCED), 1992

A/RES/66/288: The future we want

179. Agenda 21 of the United Nations Conference on Economic Development (UNCED) made a direct connection between sustainable development and the role of workers and their trade unions. It refers to the objectives of the Conference which include:

⁹⁷ COFI/2007/6 “Social Issues in Small-Scale Fisheries”.

⁹⁸ COFI/2009/7 “Securing Sustainable Small-Scale Fisheries: Bringing Together Responsible Fisheries and Social Development”.

- a. To promote ratification of relevant conventions of ILO and the enactment of legislation in support of those conventions
- b. To reduce occupational accidents, injuries and diseases according to recognized statistical reporting procedures
- c. To increase the provision of workers' education, training and retraining, particularly in the area of occupational health and safety and environment

180. The activities envisaged by Agenda 21 include promoting freedom of association. It states that: "Governments and employers should promote the rights of individual workers to freedom of association and the protection of the right to organize as laid down in ILO conventions. Governments should consider ratifying and implementing those conventions, if they have not already done so". After emphasising the importance of trade unions, it states that the objective "is poverty alleviation and full and sustainable employment, which contribute to safe, clean and healthy environments - the working environment, the community and the physical environment. Workers should be full participants in the implementation and evaluation of activities related to Agenda 21".

181. There are a number of references in the General Assembly Resolution 66/288, 2012 entitled "The future we want". They include the relationship between sustainable development and decent work. Paragraph 30 of the Resolution states:

We recognize that many people, especially the poor, depend directly on ecosystems for their livelihoods, their economic, social and physical well-being, and their cultural heritage. For this reason, it is essential to generate decent jobs and incomes that decrease disparities in standards of living in order to better meet people's needs and promote sustainable livelihoods and practices and the sustainable use of natural resources and ecosystems.

Paragraph 57:

We affirm that policies for green economy in the context of sustainable development and poverty eradication should be guided by and in accordance with all the Rio Principles, Agenda 21 and the Johannesburg Plan of Implementation and contribute towards achieving relevant internationally agreed development goals, including the Millennium Development Goals.

And Paragraph 152:

We recognize that workers should have access to education, skills, health care, social security, fundamental rights at work, social and legal protections, including occupational safety and health, and decent work opportunities. Governments, trade unions, workers and employers all have a role to play in promoting decent work for all,...

2. Decent Work and IUU Fishing

Joint FAO/IMO ad hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters, 2000

A/RES/62/177, 2008

EU Commission Communication 2007 (COM 601) on a new strategy for the Community to prevent, deter and eliminate IUU fishing

Council Decision (2010/321/EU)

EU Parliament: Motion for a Resolution by the European Parliament on combating illegal fishing at the global level - the role of the EU (2010/2210(INI) Doc

182. In the past ten years international authorities including the UN, the FAO, the ILO, the IMO, the EU, and the RFMOs have come together to develop and adopt policies and legal instruments to combat IUU fishing. In 2007 the ILO adopted the Work in Fishing Convention, providing for the first time a comprehensive framework within which the rights of fishworkers are properly recognized and protected. While international efforts continue to focus on ways by which IUU fishing is prevented, reduced and eradicated, the relationship between the fishworkers who carry out the offence and IUU fishing has been largely overlooked.

183. It has been argued that the conservation and management of the fishery resources is a triangle, each point of which represents one third of the total component of the management of the resources. It seems that while attention has been focused on the resources and the States and RFMOs, the very people who actually go out and commit the offence are completely ignored. The fishworkers, as was pointed out above, are in this equation as important as the resource and those who regulate the resource.

184. The first proper and comprehensive statement on this issue was made the ILO representative, to the Joint FAO/IMO ad hoc Working Group on IUU Fishing and Related Matters in 2000.⁹⁹ In his representation he related the issue of IUU fishing in the context of the ILO's Decent Work Agenda. Workers in the fishing sector were entitled to decent work, no matter what size the vessel, where it operated or what flag it flew. There was a need to consider the human dimension of fishing, especially the abuse of crew and unsafe crew conditions. The paper pointed out that:

The Flag State and Port State control of fishing vessels and the issue of IUU fishing should be considered in the context of the Decent Work Agenda of the ILO. The

⁹⁹ Joint FAO/IMO ad hoc Working Group on Illegal, Unreported and Unregulated Fishing and Related Matters, , 2000, see FAO Fisheries Report No. 637, 2000.

primary goal of the ILO today is to promote opportunities for men and women to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. Decent work means productive work in which rights are protected, which generates an adequate income with adequate social protection.

The paper concluded by suggesting recommendations that would address the "human" aspect of IUU fishing, especially the abuse of crew and unsafe crew conditions that have been noted in other fora.

185. In its Resolution A/RES/62/177, 2008, the General Assembly stated that illegal, unreported and unregulated fishing may give rise to safety and security concerns for individuals on vessels engaged in such activities. It welcomed the adoption of the Work in Fishing Convention, 2007 and went on to say that "it was particularly concerned that illegal, unreported and unregulated fishing constitutes a serious threat to fish stocks and marine habitats and ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States. It may be pointed out that this is the first time that UN makes a direct connection between IUU fishing, fishworkers' rights and sustainable development of fishery resources.

186. On a new strategy for the Community to prevent IUU fishing, the commission's communication states that: "In addition, some firms who practice illegal fishing, including EU operators, operate substandard vessels flying the flag of states which apply no or very low standards of social protection. As a result, their crews have to endure unacceptable living and working conditions. This in turn undermines efforts to achieve international progress on social standards for fishermen, reflected in the consolidated convention on work in the fishing sector adopted by the International Labour Organisation (ILO) in June 2007".¹⁰⁰

187. The Resolution adopted by the Committee on Fisheries of the European Parliament on combating IUU fishing (2011) makes several references between the IUU fishing and decent work. Paragraph 3 of the Report states:

Emphasises that IUU fishing and associated commercial activities constitute unfair competition for fishermen and others who operate in a law-abiding fashion, and creates economic difficulties for fishing communities, consumers and the entire sector

Paragraph 19

Stresses the need to ensure that all third countries with which the EU has signed a Fisheries Partnership Agreement apply the rules of the International Labour Organisation (ILO) on core labour rights, particularly those concerning social dumping caused by IUU fishing

Paragraph 60

¹⁰⁰ See: COM (2007) 601 final, 2007, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Is alarmed at the use of such criminal activities as human exploitation and trafficking, money laundering, corruption, handling of stolen goods, tax evasion and customs fraud by those engaged in IUU fishing, which should be viewed as a form of organised transnational crime; emphasises the need for a more comprehensive and integrated approach to combating IUU fishing, including controls on trade and imports

188. In the explanatory note the Report makes an important reference to IUU fishing and its relationship to a number of criminal activities:

A relatively new element is the realisation of the involvement of criminal groups in IUU fishing. Such involvement could include the participation of classical criminal gangs in the fishing operations, but more often is the adoption of some of their techniques in support of fishing, such as human trafficking, slave labour, tax evasion, money laundering, customs fraud, corruption, handling of stolen goods, etc.

3. PESCAMED and GFCM Approach to the study of the Relationship between IUU Fishing and Decent Work as prescribed in international Instruments

189. In 2010, the Italian Ministry of Agriculture, Food and Forestry commissioned the Mediterranean Agronomic Institute of Bari (IAMB) and the International Centre for Advanced Mediterranean Agronomic Studies (CIHEAM), to carry out a project entitled Development of Co-operation in the Mediterranean Fishery Sector: World of Labour, Producers' Organizations, Consumers' Associations and Training (PESCAMED). The objectives of the project were to conduct an analysis regarding the world of labour and associations and to promote training designed to address the issue of the sustainable development and management of fishing in the Mediterranean countries. During 2011 a number of meetings and seminars were held on various aspects of the project.

190. One of the main objectives of the project was to collect and analyze the legislation on fishworkers' rights in all of the 11 participating countries.¹⁰¹ In 2011, PESCAMED published a comprehensive study on country reports which included laws and regulations on labour and producers' associations.

191. At its 11th session, SCESS discussed a number of issues on the socioeconomic aspects of fisheries in the region. The secretary of UILAPESCA introduced the PESCAMED study, and gave a brief history of the objectives and achievements of the project. On the basis of that introduction and the discussions that followed, the SCESS decided to refer the possibility of carrying out a comprehensive review regarding the collection, study and analysis of the national legislation of its members

¹⁰¹ The countries participating in the project were: Albania, Algeria, Croatia, Egypt, Italy, Lebanon, Morocco, Montenegro, Syria, Tunisia and Turkey.

in relation to the rights of fishworkers to the meeting of the Scientific Advisory Committee (SAC) of the GFCM for consideration and approval. At its 14th session held in Sofia, Bulgaria, in February 2012, the SAC made a historic decision by approving the proposal by SCESS, which may prove to be very important in relation to the management of the fishery resources of the Mediterranean Sea. GFCM, as one of the oldest RFMOs, will be the first fishery organization to embark on this study.

192. It is, however, important to mention here that in 2009 COFI made an important statement which unfortunately has gone unnoticed. The remark was made after a reference by the Committee concerning the cooperation between FAO and ILO in relation to decent work and the application of the provisions of the Work in Fishing Convention 2007. The Committee stated that:

It was also suggested that the working conditions in each country be analyzed and minimum goals be established that can be subject to regular monitoring and reporting.

193. It is important to point out that within the UN system, FAO has the mandate to collect, analyze, interpret and disseminate information relating to nutrition, food and agriculture (including fisheries and marine products). It is also the function of the Organization to promote and, where appropriate, recommend national and international action with respect to *inter alia* the conservation of natural resources.¹⁰² The role of the FAO as the most appropriate organization to deal with matters related to fisheries was reiterated in the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries in 1999.¹⁰³ It stated that the Ministers

Affirm that FAO and its governing bodies make an essential contribution to international fisheries governance and that, together with regional fishery management bodies, FAO is the most appropriate forum for addressing vital global fisheries issues and accordingly call on the Organization to assign higher priority and increased share of FAO's regular programme resources to its fisheries programme activities.

194. The Declaration further stated that the FAO:

FAO will develop a global plan of action to deal effectively with all forms of illegal, unregulated and unreported fishing including fishing vessels flying "flags of convenience through coordinated efforts by States, FAO, regional fishery management bodies and other relevant international agencies such as the International Maritime Organization (IMO).

¹⁰² See Article 1 of the Basic Text of the FAO, volumes I and II. See also the Report of Sixth session of COFI, 1971, FAO Fisheries Report, No. 103, Para. 47-56.

¹⁰³ See: The Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries, Adopted by the FAO Ministerial Meeting on Fisheries, Rome, 10-11 March 1999.

195. It seems that FAO, which is responsible for a number of regional fishery bodies and has a global mandate in respect of fisheries, could initiate, encourage and even undertake similar studies to the one undertaken by the GFCM.

Conclusion

195. The problems associated with the conservation and management of fishery resources are many and often complex. There has been a concerted effort on the part of the relevant international organizations to address these problems and to find appropriate and effective ways to stop the destruction of many fish stocks, marine ecosystems and biological diversity. The many different offences committed in contravention of conservation and management measures have come to be referred to as “IUU fishing”.

196. These illegal activities are not new, but the ways and means by which they should be and are being tackled are. International efforts have been focused on demonstrating incontrovertibly the continued decline in fish stocks in most areas of the oceans. The slow reaction to the state of fish stocks in the 1980s and 1990s allowed many more species to get closer to the point of depletion. Since the new Millennium, there have been more international legal instruments adopted than at any time in the history of the international law of fisheries management. Despite the adoption of these instruments, IUU fishing continues remorselessly, undermining the efforts of coastal States as well as the RFMOs who try to regulate in a sustainable manner the fisheries for which they are responsible.

197. In the fight against IUU fishing the most important component of these illegal activities has been missing from the considerations of policy and law makers. IUU fishing is committed by fishworkers, and until very recently the international organizations with a mandate in respect of fishery resources completely ignored the role of the fishworkers when addressing the problem of IUU fishing. Furthermore there is ample evidence to suggest that in many instances the fishworkers themselves are the victim of IUU fishing.

198. One of the most unacceptable aspects of the IUU fishing is the way fishworkers are treated in what has become to be referred to as “pirate” fishing. These are fishworkers who are deprived of the most basic human rights, living in unhygienic and cramped conditions and spending weeks and months at sea without any rest. The smaller operators do not treat their fishworkers any better. The fishworkers engaged in IUU fishing often have no contracts and therefore lack the protections enjoyed by law by those in possession of a valid contract.

199. As discussed earlier, the relationship between management and fishworkers was very clearly identified as an important factor in 1984 by the FAO World Conference on Fisheries Management and Development. This relationship was also acknowledged by UNCED in 1992. The direct link between IUU fishing and decent

work in fishery sector was made in 2000 by the ILO representative to the FAO/IMO Ad Hoc Working Group on IUU Fishing. The two UN organizations that should have been coordinating their efforts on this issue seem not to have made the connection. The adoption of the Work in Fishing Convention, 2007 which, for the first time, provides a comprehensive set of regulation to protect fishworkers, should have been properly and vigorously promoted by FAO and RFMOs.

200. In the light of the discussions above and the available documents, Uilapesca believes that the legal basis and historic conditions exist to propose a linkage between the fight against illegal fishing and the assertion of the right to decent work in the fisheries sector. This link should be based on, or at least include, an association between the fight against IUU fishing and ILO's Work in Fishing Convention, 2007, as suggested by the European Parliament in 2011.

201. Uilapesca strongly believes that the meaning of illegal fishing should be extended to include any fishing activities which are carried out without proper social protection and work contracts, a situation which clearly violate workers' rights. Similarly, Uilapesca is of the opinion that the concept of responsible fishing should include respect for fishworkers' rights and their social protection. In order for such a proposal to be considered and taken forward, there needs to be a proposal by a State at an international forum. The most suitable international forum is undoubtedly the FAO, where the concepts of responsible fishing and illegal fishing were born. The proposing state could be Italy.¹⁰⁴

¹⁰⁴ It must be stressed that FAO Committee on Fisheries (COFI) is the only specialized global forum where major international fisheries and aquaculture problems and issues are examined

Selected Documents

1. United Nations

A. General Assembly Resolutions

- 44/225, 1989
- 45/197, 1990
- 46/215, 1991
- 49/116, 1994
- 50/25, 1995
- 51/36, 1996
- 52/29, 1997
- 53/33, 1998
- 54/32, 2000
- 55/2, 2000 “Millennium Declaration”
- 55/7, 2000
- 55/8, 2000
- 56/13, 2001
- 57/142, 2003
- 58/14, 2004
- 59/25, 2005
- 60/1, 2005 “World Summit Outcome”
- 60/31, 2006
- 61/105, 2008
- 62/177, 2008
- 64/72, 2010
- 65/38, 2011
- 66/288, 2012 “The Future we want”
- 66/68, 2012

B. Agreements

- International Covenant on Economic, Social and Cultural Rights, 1966 (GA Res. 2200A (XXI), 1966)
- UN Convention on the Law of the Sea, 1982
- United Nations Conference on Environment and Development, 1992
- 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, 1995

C. Other documents

- ECOSOC: THE RIGHT TO WORK, 2006
- Oceans and the Law of the Sea, Report of the Secretary-General, A/54/429, 30 September 1999
- ECOSOC: Draft ministerial declaration, 2012

2. International Labour Organization (ILO)

A. ILO Conventions applicable to all workers

- Forced Labour Convention, 1930 (No. 29)
- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention, 1985 (No. 161)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

B. ILO Conventions relating specifically to fishworkers

- Minimum Age (Fishermen) Convention, 1959, revised in 1973 (C112)
- Medical Examination (Fishermen) Convention, 1959
- Fishermen's Article of Agreement Convention, 1959
- Fishermen's Competency Certificate Convention, 1966
- Accommodation of Crew (Fishermen) Convention, 1966
- Work in Fishing Convention, 2007

C. Other ILO documents

- The Declaration of Philadelphia, 1948
- ILO Declaration of Fundamental Principles and Rights, 1998
- Reducing the decent work deficit - A global challenge, Report of the Director General of the ILO, 2001
- World Commission on the Social Dimension of Globalization: A Fair Globalization: Creating Opportunities for All, 2004
- ILO Declaration on Fundamental Principles and Rights at Work, 2006
- ILO Declaration on Social Justice for a Fair Globalization, 2008
- ILO Handbook for improving living and working conditions on board fishing vessels, 2010

- ILO/FAO Guidance on how to address rural employment and decent work concerns in FAO country activities, 2011
- ILO: Unleashing the Potential for Rural Development through Decent Work, Building on the ILO Rural Work Legacy 1970-2010, 2011
- ILO Action Plan 2011-2016
- FAO Workshop on Child Labour in Fisheries and Aquaculture in Cooperation with ILO, 2010
- ILO Promoting Decent Work in Green Economy, 2011
- Rural Development through Decent Work: Sustainable Fishing: Decent Working Conditions, Safety and Social Protection

3. Food and Agriculture Organization of the United Nations FAO

- Technical Consultation on High Seas Fishing, FAO Fisheries Report, NO. 484, 1992
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993
- The Rome Consensus on World Fisheries. FAO. Rome, 1995
- Report of the Twenty-third Session of the Committee on Fisheries, Rome, Italy, 15-19 February 1999
- “Report of the Twenty-third Session of the Committee on Fisheries”. FAO Fisheries Report No. 595, 1999
- Report of the Expert Consultation on Illegal, Unreported and Unregulated Fishing, 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, 2000
- International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing. Rome, FAO. 2001
- The 2005 Rome declaration on Illegal, Unreported and Unregulated Fishing, 2005
- COFI/2007/7, 27th session, 2007
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009
- COFI/2009/6, 28th session, 2009
- Aquaculture in cooperation with ILO, FAO Fisheries and Aquaculture, Report No. 944, 2010
- COFI/2011/5, 29th session, 2011
- Code Of Conduct for Responsible Fisheries
- Report of the FAO Workshop on Child Labour in Fisheries and
- COFI/2012/8, 30th session, 2012

4. European Union

- 91/533/ EEC
- 93/103/EC
- 94/33/EC
- (EC) No 2371/2002
- COM 383 (2004)
- COM (2004) 383 final
- (EC) No 601/2004
- COUNCIL 2006 “Council Conclusion on Decent work for all”
- COM (2006) 249 final
- COM (2007) 601 final
- SEC (2007) 495
- COM (2007) 575 (the "Blue Paper")
- SEC (2007) 495
- COM(2008) 422 final, 2.7.2008
- COM (2008) 412 final
- EC No 1005/2008
- COM(2009) 8 final, 21.1.2009
- COM(2009)599 final, 29.10.2009
- (EC) No 1010/2009
- (EC) No 1224/2009
- (2010/2210(INI) Doc
- Council Decision (2010/321/EU) 7 June 2010
- Regulation 468/2010
- (EU) No 724/2011
- COM(2012) 446 final
- EU Parliament: Motion for a Resolution by the European Parliament on combating illegal fishing at the global level - the role of the EU

5. RFMOs

- CCAMLR: Performance Review Panel Report, 2008
- CCSBT: Report of Performance Review Workshop, 2008
- GFCM: Report of the Performance Review, 2011
- ICCAT: Report of the Independent Review, 2008
- IOTC: Report of the IOTC Performance Review Panel, 2009
- NAFO: NAFO Performance Review, 2010
- NASCO: External Performance Review, 2012
- NAPFC: Report of the Performance Review Panel, 2010
- NEAFC: Report of the Performance Review Panel, 2006
- FFA: Pacific Islands Forum Fisheries Agency (FFA) Performance Review, 2010

List of documents available in the USB Key

RESPONSIBLE FISHERIES AND IUU FISHING

UN AND LAW OF THE SEA

UN 1982 UNCLOS III
UNGA 1989 RES 44/225 on Drifnet fisheries
UN 1992 Agenda 21, Chapter 17
UN 1995 Straddling stocks Agreement
UNGA 2000 RES 54/32 on IUU fishing

FAO DOCUMENTS ON RESPONSIBLE FISHERIES

FAO 1984 World Conference on Fisheries Management and Development
FAO 1992 Cancun Declaration on responsible fishing
FAO 1993 Compliance Agreement High Seas
FAO 1995 Code of Conduct
FAO 1995 Rome Consensus on World Fisheries
FAO 1995 Kyoto Declaration on Sustainable Contribution of Fisheries to Food Security
FAO 1999 Rome Declaration on Code of Conduct

FAO DOCUMENTS ON IUU FISHING

FAO 2001 International Plan of Action IPOA against IUU
FAO 2002 Implementation of IPOA/IUU
FAO 2003 Conference Resolution on IUU
FAO 2005 Rome Declaration on IUU
FAO 2009 Agreement on Port measures to prevent IUU fishing

EU DOCUMENT ON IUU FISHING

EU 2008 Reg.1005
EU 2009 Reg. 1010
EU 2010 Reg. 468 (IUU Vessels)
EU 2011 Reg. 724 (IUU vessels) EN

ILO CONVENTION C 188 WORK IN FISHERIES

BASIC TEXT

ILO 2007 C 188 work in fisheries
ILO 2007 R 199 work in fisheries
ILO 2011 C 188 Action Plan 2011-2016

THE C 188 IN EUROPE

EU 2010 Council Decision on C 188 ratification
ETF/COPA 2012 Agreement on ILO C 118

INFORMATION DOCUMENT ON C188

ILO 2007 Decent working condition
ILO 2010 Handbook improving working condition
ILO 2010 Guidelines on port states control officers
ILO 2010 Training manual on C188
ITF 2012 Guide on ILO Work in Fishing Convention 2007

DECENT WORK IN INTERNATIONAL LAW

BACKGROUND DOCUMENTS

Ilo 1944 Declaration of Philadelphia
UN 1966 Covenant on economic and social rights (ICESCR)
UN 1992 Agenda 21 Chapter 29 Strengthening the role of workers and trade unions
ILO 1998 Declaration on fundamental principle and rights at work

DECENT WORK IN UN AND ILO DOCUMENTS

ILO 1999 first reference to decent work (Report of Director General)
ILO 2000 Decent work Agenda
UN ECOSOC 2005 The right to work
UN 2005 Final Declaration of the World Summit
UN 2012 Rio+20 Declaration Future we want
UN ECOSOC 2012 Ministerial declaration

DECENT WORK IN EU LAW

EU 2004 Commission Report COM 383
EU 2006 Commission Report Promoting Decent Work
EU 2006 Council Conclusion
EU 2007 Commission SEC 495 Promoting employment
UE 2007 Parliament Resolution promoting decent work
EU 2008 Commission Report Promoting Decent Work
EU 2012 Commission COM 412 - Social Protection in European Union Development Cooperation

IUU FISHING AND DECENT WORK AND FISHERIES

FAO/IMO 2000 working group on IUU fishing
FAO/IMO 2007 working group on IUU fishing
FAO/ILO 2010 workshop on child labour in fisheries and aquaculture
UNGA 2008, Resolution A/RES/62/2008 Sustainable fisheries
ILO 2011 Sustainable Fishing and Decent Working
ILO 2011 Decent Work in Green Economy - Fisheries
UE 2007 Commission Communication (COM 601) New strategy against IUU Fishing
EU 2011 Parliament Resolution on global approach to IUU Fishing
GFCM 2012 SAC Report on Pescamed

OTHER UILAPESCA DOCUMENTS

2004 Uila/Cres/ShoreLine Moduli formativi sulla Pesca responsabile
2009 Uila/Cres/ShoreLine Ricerca sulla Pesca IUU
2011 CIHEAM/UILA Rapporto progetto PESCAMED
2010 FAI/FLAI/UILA Parere congiunto su ratifica Convenzione ILO C 188