

# Addressing Illegal, Unreported and Unregulated (IUU) Fishing

*By*

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## 1. Introduction

Illegal, Unreported and Unregulated (IUU) fisheries activities are a worldwide problem, affecting both domestic waters and the high seas, and all types of fishing vessels, regardless of their size or gear. This implies that both domestic and foreign fishers and vessels are undertaking actions that either at home or abroad or under international treaty can be illegal, unreported or unregulated. However, the way fisheries authorities (national or international as in the case of regional fisheries management organisations) deal with these issues varies quite substantially both in terms of processes (i.e. legal, administrative and economic actions that national and international authorities have at their disposal to stop such activities) and in terms of outcomes i.e. once caught, are the fines/penalties that can be imposed an effective deterrent?

IUU fishing activities is an international problem because such activities are harmful to global fish stocks. In addition, IUU also undermines the effectiveness of measures adopted nationally, regionally and internationally to secure fish stocks for the future. By undermining effective management systems, IUU fishing activities generate harmful effects on economic and social welfare of the society as a whole but for legal fishers in particular, and reduce the incentives to comply with rules. This is an important challenge for policy makers to deal with.

This paper will provide an overview of the different treatment of IUU offences among countries and Regional Fisheries Management Organisations (RFMOs). A major problem with IUU fishers is their ability to move from one fishing area to another and seeking areas with little chance of being caught. It will therefore be argued in this paper that the international community needs to collaborate and cooperate across boundaries to ensure that the problem does not move around so readily.

In this regard it is important to recognise that IUU fishing is an economic activity driven by the IUU fishers expected net benefit; when expected net benefit is positive, the activity will continue somewhere, somehow. This underscores the importance of international cooperation to ensure that potential loop holes are identified and fixed.

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Whether illegal, unreported or unregulated, the activity will have effects on the fisheries resources and economic and social outcomes on fishing communities. In the meantime the source of the illegal vs. unreported vs. unregulated fishery is very different. Based on the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (FAO IPOA-IUU) the definitions used by the OECD study are for each element:

Illegal fishing is conducted by vessels of countries that are parties to a regional fisheries management organisation (RFMO) but operate in violation of its rules, or operate in a country’s waters without permission.

Unreported fishing is catch not reported or misreported to national relevant authorities or RFMO.

Unregulated fishing is conducted by vessels without nationality or flying the flag of States not parties of relevant fisheries organizations and who therefore consider themselves not bound by their rules.

To combat the different types of IUU fishing activities demand different responses and widely different actors are involved. Some responses are relying on the national legal framework which may need improvement; other rely on international frameworks as is the case with regional fisheries management organisations. The following table highlights these differences by linking illegal, unreported and unregulated fishing to where it takes place and hence implicitly by who (national, international or RFMO actors) that most appropriate can take action.

**Illegal, Unreported and Unregulated fishing activities**

Area	EEZs	High seas			
		With RFMOs			Without-RFMOs
Actors	Foreigners	Party	Co-operating States	Non-party	Any
Illegal					
Unreported					
Unregulated					

2. IUU as a major international issue for fisheries policy makers.

Governments around the world have recognised the negative effects of over-fishing on resource sustainability. In addition to a direct impact on the fish stock themselves, and which in some cases have been rather severe and to the point of collapsed fish stocks (e.g. the Patagonian toothfish in the late 1990s), fishing activities by IUU fisheries have a direct impact on the amount of fish that is left for legal fishers to harvest and make a living on. Hence in addition to impacts on biodiversity, there are important economic

and social sustainability issues for fishing communities that rely on those fisheries that are of concern if IUU fishing activities are left unhampered. In this respect, it is important to underline that IUU fishing activities prejudice the interests of fishers and the fishing industry that follow the rules and regulations stipulated by management authorities.

In response, IUU fishing has moved to the forefront of the international fisheries policy agenda. At the June 2003, G8 meeting in Evian, Heads of State adopted a G8 Action Plan that calls for the urgent development and implementation of international plans of action to eliminate IUU fishing. More globally, the World Summit on Sustainable Development (WSSD) meeting in Johannesburg in September in 2002 also addressed IUU fishing and through the 1990s, a variety of laws, regulations and measures against IUU fishing have been elaborated by the United Nations and in particular the UN's Food and Agriculture Organisation (FAO). A listing of the important international actions and initiatives taken to combat IUU fishing activities is provided in Annex 2.

The direct effects of IUU fishing concern the fish stocks themselves. Being either illegal or unreported such fisheries activities have an impact on the state of the stocks but often the problem is that we do not know by how much due to the illicit character of the activity. In the meantime, proper fish stock assessments are a key for ensuring the sustainability of fisheries. Furthermore, IUU activities have negative eco-system effects as by-catches are not accounted for and hence the effects on the broader eco-system cannot be properly assessed and included in the work of the fisheries manager.

While mostly overlooked, IUU activities are often associated with poor social working conditions for the fishers employed on IUU vessels. Several reports (Greenpeace, ILO and ITF) suggest that living conditions onboard IUU vessels are horrendous, bordering on being dangerous. Salaries are dismal and deckhands and fishers are mostly hired from the developing world where alternative job possibilities are few and far between. The combination of poor working conditions, poor vessel standards and generally lower levels of education make IUU fishing operation a dangerous cocktail. The possibility for fishing vessel owners and operators to engage in these activities under such poor conditions is further encouraged by the possibilities offered by "flag of convenience" states and tax havens which provide additional incentives to engage in IUU operations.

The result of the above makes IUU fishing a serious challenge to fisheries policy makers because such activities undermine the credibility of fisheries management. For RFMOs, an additional issue relates to the fact that IUU operators, as non-members of the RFMO, "profit" from efforts that complying members of the RFMO invest in ensuring a sustainable fishery. Such free riding also includes the financial costs of RFMO membership. Thus RFMO members have a direct interest in ensuring that their efforts are paying off to themselves and not to non-members or non-complying vessels.

### 3. How and where is IUU important? <sup>2</sup>

Illegal, unreported and unregulated fishing is an activity that is unaccounted for in any direct way. Most of the information and data is therefore anecdotal to the point that we only can get a very general overview of how much fish is taken and how many fishing vessels and fishers are involved. While information about IUU high seas fishing activities is inherently difficult to get, some of the regional fisheries management organisations provide clues to the size of the problem.

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<sup>2</sup> The information in this section is drawn from *Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing*, OECD 2004, proceedings from the OECD Workshop on IUU Fishing Activities of April 2004.

Regional fisheries management organisations have a major interest in ensuring that their knowledge about possible IUU activities within their area of competence is as complete as possible as IUU catches directly affect the catch possibilities for RFMO members. Most RFMOs have therefore resorted to “indirectly” measuring the IUU activity by assessing the impacts on the fish stocks under their management responsibility. The RFMOs surveyed in the context of the OECD’s activity on IUU report that IUU catches are, to varying degrees, having a major impact on stocks within their management areas.

Toothfish IUU catch estimates are reviewed by the CCAMLR Working Group on Fish Stock Assessment and are based on information from both catch and trade data. During the years of 1997-2000, the amount of toothfish taken by IUU fishing (by Members and non-Contracting Parties) was estimated to around 90 000 tons, i.e. more than twice the level of catches taken in CCAMLR-regulated area. Prior to 1996, CCAMLR used sighting of IUU vessels to determine the amount of IUU catch as a function of daily catch rates per day fishing in a given geographical location. Presently, catch documentation, trade data and stock assessments are used to assess IUU harvest.

The North East Atlantic Fisheries Commission (NEAFC) reports that up to 20% of the redfish traded internationally in 2001 originates from the activities of IUU fishing vessels<sup>3</sup>. In the Northwest Atlantic Fisheries Organisation (NAFO) area, it is estimated that 10 000 tons of groundfish were illegally caught in 2001, including plaice, cod and redfish. In addition, Greenland halibut quotas were also estimated to have been exceeded by 3 100 tons<sup>4</sup>.

In case of Atlantic tuna fisheries, ICCAT has estimated that 10% of all tuna catches is taken by IUU fishing. ICCAT has estimated that the IUU catch of bigeye tuna reached a maximum of 25 000 tons in 1998 but has since declined to about 7 200 tons in 2001. Based on Japanese calculations, ICCAT has been advised that some 25 000 tons or around 18% of all fishing activities for tuna over the 2001/2002 season may be attributed to IUU activities. ICCAT uses a combination of trade information and catch data to estimate the unreported catch of Atlantic bluefin tuna in its area of operation

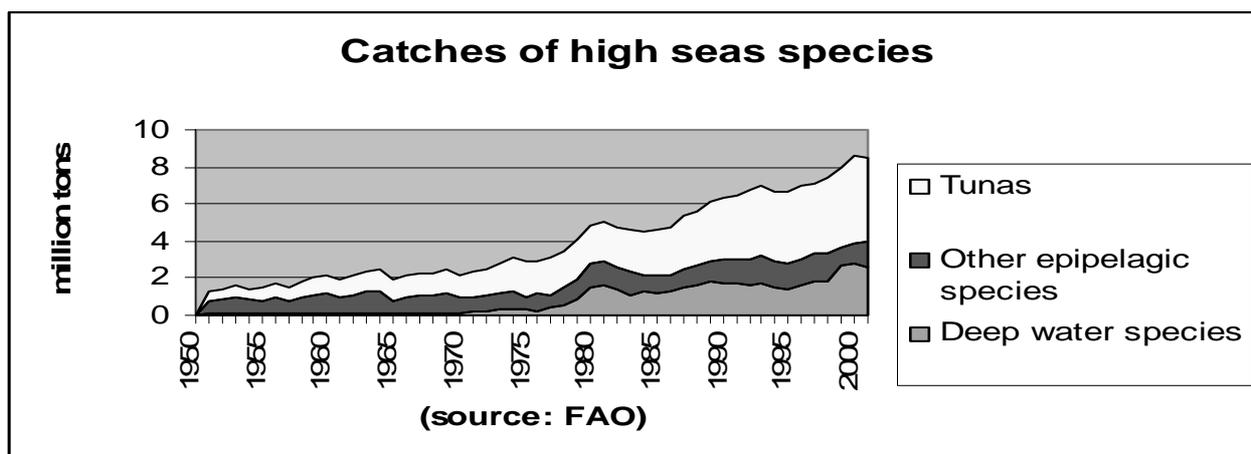
Insofar as the CCSBT is concerned, estimates of IUU catches suggest that in 1999 the catches of southern bluefin tuna by non-members were estimated to be at least 4 000 tons, corresponding to 1/3 of the total allowable catch in 1999. The IOTC estimates that between 120 000 tons and 140 000 tons of tuna, corresponding to around 10% of all tuna landings, are taken in the IOTC area by IUU fishing operators.

The only world wide figures available on high seas fishing activities are from the FAO. They suggest that the combined catch by IUU and legal operators on the high seas amounts to some 8 million tons on a yearly basis, most of which is tuna and deep seas fish species. What is remarkable though is that the harvest from this area of the sea has doubled over the past twenty years and that this development has taken place at a time when domestic fishing activities have been increasingly restricted. We are therefore witnessing a spill-over effect of domestic fishing capacity to international high seas fisheries.

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<sup>3</sup> Quoted in Agnew and Barnes (ibid). The NEAFC has also begun to list the names of IUU vessels (see for instance NEAFC (2002) AM 2002/15 and 34. References to IUU activity appear in the NEAFC annual reports, including most recently the 2002 report (NEAFC Annual Reports are available at the following site: <http://www.neafc.org/>)

<sup>4</sup> OECD, Review of Fisheries, 2003



#### 4. Actions taken so far

Over the past decade, as IUU fishing on the high seas has been increasingly recognised as a problem, several national and international initiatives have seen the light of day. Some measures have been taken by public authorities (national or international) while others have been private initiatives by stakeholders intimately involved in fisheries.

Irrespective of the measures taken and by whom, it has become clear that only a massive effort involving all stakeholders, but in particular those of private operators that have a direct economic stake in the fisheries, is needed to stop IUU high seas fishing activities. This follows from the role that each stakeholder group is able to fulfil the type of information they are capable of collecting and their interest (economic, social or environmental) in seeing this activity stopped. Based on an on-going OECD survey, the following reviews the major international, RFMO, national and private instruments set up to combat IUU.

##### *International measures<sup>5</sup>*

Although the high seas are open to all states (whether coastal or land-locked), freedom of the high seas and governance of high seas fisheries are subject to the basic conditions set out in the 1982 United Nations Convention on the Law of the Sea (LOS Convention). High seas fisheries are high seas stocks, highly migratory resources and straddling stocks. Such resources are usually managed through regional fisheries management organisations. In addition to the LOS Convention, the current international instruments related to high seas fisheries are:

- 1993 FAO Compliance Agreement (Compliance Agreement)
- 1995 UN Fish Stock Agreement (Fish Stock Agreement)
- 1995 FAO Code of Conduct for Responsible Fisheries (the Code)
- 2001 FAO International Plan of Action on IUU fishing (IPOA-IUU)

Among existing instruments, the Compliance Agreement and the UN Fish Stock Agreement are legally binding international instruments and contain a range of requirements relating to flag State responsibilities,

<sup>5</sup> See also Annex 2 which provides a history of the international actions and initiatives to combat IUU.

compliance and enforcement. On the other hand, the Code and the IPOA-IUU are voluntary and management oriented instruments. They were formulated to be interpreted and applied in conformity with the relevant rules of international law.

Although somewhat different in their focus and scope, each instrument has the same goal *i.e.* to ensure long-term, sustainable use of fisheries resources. These instruments are also essentially complementary in nature to achieve their objective toward sustainable and responsible fisheries. OECD member countries' status with respect to major international agreements is provided in Annex 1.

Some observers have pointed out that the most effective measure to curb IUU fishing on the high seas would be the earliest possible adoption or ratification of, or accession to relevant international fisheries instruments, including the UN Fish Stock Agreement and the Compliance Agreement and full implementation of the Code, by all States and entities engaged in fishing. While these major instruments have now entered into force, one challenge remains: how to overcome a major loophole in international law which is that a country not adhering to a treaty is not bound by its provisions.

A particular note should be made of the 2001 FAO International Plan of Action on IUU Fishing. The purpose of the IPOA-IUU is to prevent, deter and eliminate IUU fishing by providing countries with a set of comprehensive, effective and transparent measures on the basis of which they may act either directly or through the relevant RFMOs. The IPOA-IUU seek to address IUU fishing in a holistic manner and provide a comprehensive "toolbox" as a checklist so that States can select those measures that are most relevant to their particular situations. The implementation of the IPOA-IUU focuses on the elaboration of national plans of action on seven types of measures such as coastal State measures, port State measures, and market related measures. Under the IPOA countries are supposed to develop a national plan of action by June 2004 on a voluntary basis. However, according to the FAO, around forty-one countries world-wide are expected to have national plans in place in the near future.<sup>6</sup> Among them, only 18 member countries reported to FAO that they would be completed before the 2004 deadline (FAO C 2003/21). As of March 2004 only four countries (EU, Spain, United States and Japan) have submitted their national plan to the FAO.

Albeit a voluntary instrument, the IPOA provides international support for various types of action against fishing by flags of convenience vessels. Under the Plan, in addition to detailed requirements for the flag State, there are provisions for port States to collect specified information on fishing activities and possibly to deny the landings or transshipment of catch to IUU fishing vessels. States can impose trade-related measures such as import bans, as well as adopt legislation making it an offence to trade in fish caught by IUU fishing vessels. The IPOA also urges countries to adopt multilateral catch documentation and certification requirements as a means of eliminating trade in fish derived from IUU fishing. By the same token, coastal States are to implement effective control and surveillance in their waters. With the full and effective implementation of flag State control, the development of complementary port State control would possibly also contribute to a reduction in IUU fishing on the high seas. In this sense, and when properly implemented into national legislation, the IPOA-IUU has the potential to play an important role in addressing IUU fishing activities.

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<sup>6</sup> FAO (2003), Progress Report on the Implementation of IPOA-IUU, November 2003 (C2003/21)

### *Measures by Regional Fisheries Management Organisations*

Regional fisheries management organizations play a crucial role in the combat of IUU high seas fishing activities. RFMOs are at the forefront of the fight as it is they and their member ships that initially feel the brunt of IUU activities directly through fewer harvesting opportunities.

Increasingly RFMOs have taken steps to combat IUU in a number of ways. The most important of these have been the establishment of catch and trade documentation schemes which have been central elements in CCAMLR, ICCAT and CCSBT. Although these schemes have different names and modalities, they all seek to promote a way of keeping track of “legal” catch. In the market place, information on origin has increasingly been asked for by the industry and commerce and the implementation of such schemes offer the additional advantage that data and information can be collected by RFMOs. This latter type of information can be particularly useful in identifying major markets and trade flows. At present, only a few RFMOs have implemented catch or trade documentation measures, and applied only to a limited number of species.

While trade and catch documentation schemes offer some possibilities for tracking data on harvest from legal fishing activities, it is quite clear that markets and ports may still be open for fish from IUU sources. This is the reason at least a couple of RFMOs have actively pursued the possibility of introducing trade embargoes of harvest of fish from certain origins. For example, under the auspices of ICCAT, member countries have agreed to embargo tuna from certain origins (including Belize) as there was fear that the traded tuna was from IUU activities.

A number of RFMOs have recently developed both a white list of vessels permitted to fish within the RFMO area as well as black lists of vessels that are not in possession of a permit to fish. The extent to which this will be an effective manner to counter IUU activities remains to be seen. But if properly maintained and sightings for vessels are continued over some time, it offers possibilities in particular when combined with other measures such as national ports state control measures.

As mentioned above, the role of RFMOs is crucial in the combat of IUU activities. To make this even more effective and efficient in combating IUU fishing, more harmonisation of legislation and the creation of new regional initiatives such as vessel databases, or agreements on the minimum terms and conditions for the access of foreign vessels is needed. If not there is a risk of IUU vessels moving between RFMO areas to pursue their activities in the area with the least effective control.

### *National measures*

In its work on IUU activities, the OECD Committee for Fisheries decided to compile an inventory of national measures which includes the following elements:

1. Legal measures and regulations dealing with
  - IUU fishing activities by national vessels
  - IUU fishing activities by foreign vessels within EEZ
  - Registration of fishing vessels
2. Economic measures i.e.
  - Investment rules
  - Trade rules
  - Rules regarding landing, transshipments and marketing
  - Penalties, fees and restrictions to GFTs
3. Other measures i.e.

- Moral measures
- Ethical measures
- Other measures

The key results from this survey showed that most OECD countries control and monitor national flagged fishing vessels activities by such tools as vessel registration, permits, catch quotas, reporting obligations, high technology VMS and observer coverage. Increasingly, the information derived from VMS and catch reports is used to feedback into real-time fisheries management decisions. There is nevertheless a need to ensure better mechanisms for tracking vessels through re-flagging. Such information is only kept by very few national authorities.

OECD member countries also have very strict requirements for foreigners in the process of vessel registration. However previous IUU history of the vessels seeking registration is not considered in most countries except in New Zealand and Australia, and the registration process therefore serves a relatively limited filtering role in preventing IUU fishing activities and “hopping” of vessels from registry to registry. Increasingly, trade measures (such as catch and trade documentation schemes) initiated by RFMOs are supported by many member countries due to its success in tracking and curbing IUU fishing.

Only two OECD countries, Spain and New Zealand, apply domestic sanctions to extra-territorial fishing activities by their nationals and national flagged vessels. While a contentious area ensuring that a country’s own national apply the rules clearly offers some prospects in the combat against IUU activities.

Most OECD countries apply penalties for offences by foreign vessels in national waters. However, the survey across the OECD countries show that the penalties (especially fines) imposed by most member countries are considered to have little impact on deterring IUU fishing activities, compared to the high values of IUU catches. This is a serious concern which needs to be addressed world wide. This will avoid IUU operators seeking areas of fishing where the fines are lowest and where the monitoring and surveillance is weakest.

With some notable exceptions, most countries are not actively using other measures such as encouraging private sector movement, establishing non-economic and social mechanisms to discourage IUU fishing involvement by their nationals and national flagged vessels.

#### *Private sector initiatives*

A number of non-governmental organisations have been active in the combat of IUU, including TRAFFIC, Greenpeace and the WWF. These organisations have largely undertaken studies of the IUU problem and in this regard been a valuable source of information. Some of their studies have also been useful in showing alternative approaches in how to address the IUU problem. Meanwhile, two private initiatives have been particularly successful in combating IUU activities in their respective area of operation i.e. the Coalition of Legal Toothfish Operators (COLTO) and the Organisation for the Promotion of Responsible Tuna Fisheries (OPRT).

As an international alliance of legal fishers formed to eliminate illegal fishing for toothfish, COLTO is committed to working with governments, conservation groups and the general public to highlight the need for urgent action to combat illegal and unregulated toothfish poachers. COLTO, based in Australia, has launched an international ‘Wanted’ reward scheme in 2003. The Coalition is offering up to USD 100 000 for information leading to the conviction of illegal fishers and companies. In addition through promotional campaigns and through its official web site ([www.colto.org](http://www.colto.org)) COLTO advises the public about the problems of IUU fishing for toothfish. Legal toothfish operators have gathered around this project as they

have increasingly found themselves with problems in the market place as consumers have been confused as to the difference between legal and illegal toothfish. The COLTO furthermore can be an effective deterrent as market information and intelligence can be gathered close to the source and from commercial interests.

Likewise the OPRT is a case in showing that private initiatives can play a very important role in the fight against IUU fishing operators. Established in Japan to promote responsible tuna fisheries members of OPRT include large scale tuna fishing organisations from China, Chinese Taipei, Indonesian, Korea, Ecuador and the Philippines in addition to Japanese tuna operators. In total 1460 tuna long-line fishing vessels were registered with OPRT by March 2004. The main function of the OPRT is to engage in promotional campaigns and disseminate information on IUU tuna fisheries. In this respect it should be noted that the Japanese market plays a key role as the world's largest tuna market. Clearly, in the case of tuna, the IUU combat is helped by this market characteristic.

Before the OPRT initiative began operating, there were reportedly 250 flag of convenience tuna long-line vessels operating. However, with the introduction of the Positive List Scheme on a global scale, IUU tuna catches can no longer be traded in international markets. The activities of IUU tuna fishing is closely monitored due to relative ease of changing the vessel name and registration in an effort to circumvent sanctions imposed by RFMOs. In addition the project involved the scrapping of Japanese long line tuna vessels which otherwise would have been transferred and re-flagged to other countries; these vessels have thus effectively been taken out of service, thus helping to reduce overall tuna long-line fishing capacity.

Both these private initiatives are important evidence of the very high value that legal operators attach to operating in these markets without the interference of IUU fisheries operators. It underscores that when the incentive structure is right, it is possible to get private operators involved in combating the IUU fisheries operations which hitherto has largely been addressed through governmental measures.

## 5. Drivers of IUU activities

IUU fishers are primarily driven by the fact that the activity has a potential net economic benefit. A number of drivers underpin the incentives of the IUU fishers to engage in this type of activity. As part of the OECD analysis a number of preliminary key economic, institutional and social drivers have been identified, including:

- Existence of excess or idle fishing capacities, which incite operators to engage in IUU activities to get higher revenues and which reduce fishing vessels and crew cost.
- Incompleteness of the international legal frameworks, which allows operators engaged in IUU fishing activities to face reduced operating and risk cost.
- Insufficient or ineffective enforcement of national and international regulations (including low MCS capacities and low level of sanction), which reduce the cost of risk faced by IUU operators.
- Existence of tax havens and other non-cooperative practices, which may provide IUU operators with low tax and reduce the cost of risk.
- Prevalence of poor economic and social conditions in some countries, which reduces the cost of fraud, crew costs, the cost of risk and the costs associated with maintaining appropriate safety and working standards.
- Existence of subsidies that reduce the cost of IUU fishing capacity.
- Existence of fiscal and foreign investment rules that reduce the cost of IUU fishing capacity.
- Underestimation and non-internalisation of the social cost generated by IUU fishing activities, which reduce the moral/reputation cost IUU operators might face

Such drivers help IUU fishers to either increase their revenue or decrease their costs thus continuing making the operation profitable. What is needed is a number of actions by national governments individually or in cooperation, as well as actions by RFMOs and by the private sector that effectively change the revenues of IUU fishers and hence reduce the incentives to engage in IUU fishing. As a starting point, the drivers underpinning IUU activities should be revisited by governments and urgent actions could be initiated on developing policies to alter the incentive structure to undertake IUU.

## 6. An agenda for the future

Despite many actions that have been taken by the international community IUU is still an on-going problem. Clearly the reasons are economic and IUU fishers, when confronted with new limitations or regulations on their operations, will explore alternative ways of continuing their fishing. In conclusion, perhaps the most important notion to keep in mind is that as long as the IUU activity is profitable (or more likely that when the expected benefits exceed the expected costs) it is not easy to stop.

Measures taken so far by the international community are largely a legal patchwork with different geographical and jurisdictional scope. Combined with the fact that a variety of states subscribe to the measures, the loopholes in the present system allow IUU activities to move around and seriously undermine the systems effectiveness.

It is therefore important to consider alternative strategies that focus on the economics of the activity. In devising new measures to combat IUU, it is important to identify instruments that either reduce the income stream or alternatively increase the costs of the activity. Such actions will help make the IUU operations less profitable and IUU vessels may move to other activities. In addition, and this relates to the “expected benefit” of the IUU operations, it is important to ensure that the monitoring and surveillance of IUU fishing activities is stepped up. However, only when combined with sufficiently restrictive levels of fines and penalties, such activities become meaningless from an economic point of view. In the meantime, many countries could do more to ensure that excess fishing capacity is not spilled over into engaging in IUU fishing activities; in this regard well devised capacity reduction programs are crucial and can play an important role in ensuring that excess capacity is disposed of without undermining measures to combat IUU.

The work of the OECD’s Committee for Fisheries focuses on identifying such alternative strategies that are based on the economics of the IUU activity. As a first step in this process, the OECD Committee for Fisheries hosted a workshop on IUU Fishing Activities which took place in April 2004. An immediate outcome of this workshop was a set of key observations and findings by the Workshop Chairs on possible ways forward. These “Observations and Findings” are reproduced in Annex 3.

A possible confusing element in the international debate about IUU has been to group the various elements together into one whole i.e. IUU. From an analytical perspective a more tractable and tangible way forward may be to discuss and analyse each of the IUU elements separately with a view to identify where and when economic instruments are most appropriately used. In other words for the illegal, unregulated and unreported activities to seek to identify what type of economic instruments are most useful and by the same token identify their costs and benefits. In this regard it should be recalled that there are both benefits and costs to legal and illegal fishers alike and to the society at large.

By focussing on the economics of the IUU activity, the OECD’s Committee for Fisheries is currently in the process of advancing how instruments can be devised that are effective economic deterrents to the IUU fishing operators. This work is expected to come to an end during 2005 and will contribute to other international efforts in the combat against IUU fishing. Of particular importance in this respect is the

recently created “High Seas Task Force”<sup>7</sup> that has been set up on the initiative of fisheries ministers from Australia, Canada, Chile Namibia and New Zealand.

In the meantime, it is worth recalling that perhaps the most important reason to deal with the IUU phenomena is that high seas’ fish resources are one of the truly last trans-boundary commons. The international community needs to muster the necessary political initiative to “showcase” the IUU fishing difficulty and to demonstrate an ability to tackle problems in the global commons from which we derive essential proteins and which is an important source of living for many fishing communities.

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<sup>7</sup> The High Seas Task Force is hosted by the Round Table on Sustainable Development which in turn is hosted by the OECD. See [www.high-seas.org](http://www.high-seas.org) for further details.

**Annex 1. OECD Member Country Status with respect to  
Three Major International Agreements (as of March 2004)**

OECD Member Country or Entity	LOS Convention	Compliance Agreement	UN Agreement	Fish	Stock
Entering into force	16 November 1994	24 April 2003	11 December 2001		
	Ratified	Acceptance	Signed	Ratified	
Australia	5.10.94	—	4.12.95	23.12.99	
Austria	14.07.95	Yes	27.06.96	19.12.03	
Belgium	13.11.98	Yes	3.10.96	19.12.03	
Canada	11.07.03	Yes	4.12.95	3.08.99	
Czech Republic	21.06.96	—	—	—	
Denmark	—	Yes	27.06.96	19.12.03	
European Community	1.04.98	Yes	27.06.96	19.12.03	
Finland	21.06.96	Yes	27.06.96	19.12.03	
France	11.04.96	Yes	4.12.96	19.12.03	
Germany	14.10.94	Yes	28.08.96	19.12.03	
Greece	21.07.95	Yes	27.06.96	19.12.03	
Hungary	05.02.02	—	—	—	
Iceland	21.06.85	—	4.12.95	14.02.97	
Ireland	21.06.96	Yes	27.06.96	19.12.03	
Italy	13.01.95	Yes	27.06.96	19.12.03	
Japan	20.06.96	Yes	19.11.96	—	
Korea	29.01.96	Yes	26.11.96	—	
Luxembourg	05.10.00	Yes	27.06.96	19.12.03	
Mexico	18.03.83	Yes	—	—	
Netherlands	28.06.96	Yes	28.06.96	19.12.03	
New Zealand	19.07.96	—	4.12.95	18.04.01	
Norway	24.06.96	Yes	4.12.95	30.12.96	
Poland	13.11.98	—	—	—	
Portugal	3.11.97	Yes	27.06.96	19.12.03	
Spain	15.01.97	Yes	3.12.96	19.12.03	
Sweden	25.06.96	Yes	27.06.96	19.12.03	
Switzerland	—	—	—	—	
Turkey	—	—	—	—	
United Kingdom	25.07.97	Yes	27.06.96	10.12.01	
United States	—	Yes	4.12.95	21.08.96	

## **Annex 2: History of international actions and initiatives against IUU/FOC fishing activities**

Since 1992, the international community has promoted major initiatives and actions for the long-term sustainable management of fisheries resources.

In 1992 International Conference on Responsible Fishing (Cancun, Mexico) adopted the *Cancun Declaration*, which called upon FAO to develop an International Code of Conduct on Responsible Fishing. Following the Cancun conference, United Nations Conference on Sustainable Development (UNCED, Rio, Brazil) adopted *Agenda 21*, programme of action for sustainable development. Among Agenda 21, Chapter 17 pointed out problems of unregulated fishing, vessel reflagging to escape control and lack of sufficient co-operation between States in the management of high seas fisheries.

Based on the Cancun Declaration and Agenda 21, FAO supported technical consultations on high seas fishing that provided technical input for the UN fish stock conference in September 1992. As a result, the Compliance Agreement was approved by the 24<sup>th</sup> session of the FAO conference (November 1993). The motivation for the negotiation of the Compliance Agreement was directly related to the IUU fishing issue. The Agreement seeks to ensure that flag States exercise more effective control over their vessels while fishing on the high seas by requiring vessels to be authorized to engage in such fishing. In this way the Agreement would deter unauthorized vessels from high seas fishing and from not complying with conservation and management measures that have been agreed by competent organizations.

The United Nations General Assembly considered, for the first time in 1994, the issue of unauthorised fishing in zones of national jurisdiction and its impact on living marine resources of the world's oceans and seas. In so doing the Assembly adopted 'UN Fish Stock Agreement' in 1995. Also in 1995 the FAO Code of Conduct which was adopted. Although voluntary, the Code embrace all fisheries while the Compliance Agreement and UN Fish Stock Agreement, respectively, are more restricted in application in terms of area (high seas) and stocks (straddling fish stocks and highly migratory fish stocks).

In the evolution of terminology, the first formal mention of IUU fishing appeared during a CCAMLR meeting in 1997. At this meeting the international community showed an interest not only in the illegal fishing but also unregulated and unreported fishing. Since 1997 the term IUU fishing has been used regularly at CCAMLR meetings, and it has subsequently been diffused into other international fisheries discussions such as FAO, IMO, UN CSD and regional fishery bodies (CCSBT, IOTC, ICCAT, NAFO and NEAFC).

IUU fishing was addressed at length in the 1999 Secretary-General's Report to the UN General Assembly on Oceans and the Law of the Sea. In November 1999 the general Assembly adopted Resolution 54/32 which included references to combat IUU fishing. These reports and references to IUU fishing have clearly placed the issue on the international fisheries and oceans agenda. Concurrently, the Seventh Session of the UN CSD in April 1999 underscored the importance of Flag State and Port State issues in combating IUU fishing and invited IMO to develop relevant measures.

The International Plan of Action for IUU fishing was developed as a voluntary instrument, within the framework of the Code of Conduct for Responsible Fisheries, in response to a call from the 23<sup>rd</sup> Session of the FAO Committee on Fisheries. A draft text for IPOA-IUU fishing was elaborated at an Expert Consultation (in Sydney, Australia, in May 2000) and followed by Technical Consultations (FAO, in October 2000 and February 2001). The IPOA-IUU fishing was adopted by consensus at the 24<sup>th</sup> Session of FAO fisheries committee in March 2001 and endorsed by 120<sup>th</sup> Session of the FAO Council on 23 June 2001.

The World Summit on Sustainable Development (September 2002, Johannesburg, South Africa) recognised that protecting and managing the natural resource base for economic and social development are an essential requirements for sustainable development. From the Johannesburg Plan of Implementation, the Summit also set targets and timetables for the management of the natural resource base regarding fisheries activities as follows, including "Put into effect the FAO international plans of action to prevent,

deter and eliminate illegal, unreported and unregulated fishing by 2004”<sup>8</sup>. In September 2002, WSSD reaffirmed to put the IPOA-IUU into effect by the agreed dates (June 2004) and have agreed to eliminate subsidies that contribute to IUU fishing for sustainable fisheries management.

In November 2002, the Santiago de Compostela International Conference was held in order to give political impetus and follow up the International Plan of Action against IUU fishing. The Conference formulated initiatives and views as how best to stamp out IUU fishing at regional, national and international level.

#### **Overview of International Developments of IUU fishing Issue**

<b>Year</b>	<b>Event</b>	<b>Result</b>
May 1992	International Conference on Responsible Fishing (Cancun, Mexico)	Cancun Declaration
June 1992	UN Conference on Sustainable Development	Agenda 21
November 1993	24 <sup>th</sup> Session of the FAO Conference	Compliance Agreement
November 1994	Entry into force of UNCLOS	
August 1995	United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks	UN Fish Stocks Agreement
October 1995	28 <sup>th</sup> Session of the FAO Conference	Code of Conduct for Responsible Fisheries
October 1997	CCAMLR Meeting	First formal mention of IUU terminology
March 1999	FAO Ministerial Meeting on Fisheries	Rome Declaration on Responsible Fisheries
November 1999	UN General Assembly	Resolution 54/32 (references to combat IUU fishing)
May 2000	Expert Consultation on IUU fishing (Sydney, Australia)	A draft text for IPOA-IUU fishing
October 2000 February 2001	Technical Consultation on IUU fishing (Rome, FAO)	A draft text for IPOA-IUU fishing
April 2001	24 <sup>th</sup> Session of the FAO Fisheries Committee	IPOA-IUU fishing (adoption)
June 2001	120 <sup>th</sup> Session of the FAO Council	IPOA-IUU fishing (endorsement)
September 2002	The World Summit on Sustainable Development (Johannesburg, South Africa)	Plan of Implementation
November 2002	International Conference against IUU fishing (Santiago, Spain)	Conclusion of Conference

8. The Declaration also makes reference to “Maintain or restore depleted fish stocks to levels that can produce the maximum sustainable yield by 2015” and to “Eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity”.

### **Annex 3: Key Observations and Findings by the IUU Workshop Chairs**

The Workshop was organised around four sessions addressing: the state of play of IUU fishing; data and information needs; economic and social drivers; and possible future actions. The Workshop Chairs<sup>9</sup> compiled the following list of Observations and Findings that provide a brief overview of the main outcomes of the Workshop.

#### **The State of Play on IUU Fishing**

- IUU fishing is a worldwide problem, affecting both domestic waters and the high seas, and all types of fishing vessels, regardless of their size or gear.
- IUU fishing is harmful to fish stocks and undermines the efficiency of measures adopted nationally and internationally to secure fish stocks for the future.
- IUU fishing activities also have adverse effects on the marine ecosystem, notably on the populations of seabirds, marine mammals, sea turtles and bio-diversity as a whole (discards, etc.).
- IUU fishing distorts competition and jeopardizes the economic survival of those who fish in accordance with the law and in compliance with relevant conservation and management measures.
- There are important social costs associated with IUU fishing as it affects the livelihoods of fishing communities, particularly in developing countries, and because many of the crew on IUU fishing vessels are from poor and underdeveloped parts of the world and often working under poor social and safety conditions.
- The impact of IUU fishing for some species (primarily tuna and tuna-like species) is global, whereas that for other species (*e.g.*, Patagonian toothfish and Orange roughy) is specific to those areas where such species occur. This means that global and local solutions are required, as well as solutions tailored to specific species.
- There is concern that excess capacity in fisheries in OECD countries can lead to a spillover of capacity into IUU fishing activities.
- IUU fishing is a dynamic and multi-faceted problem and no single strategy is sufficient to eliminate or reduce IUU fishing — a concerted and multi-pronged approach is required nationally, regionally and internationally, and by type of fishery. The full range of players should be involved in helping bring forward solutions to the IUU problem.
- Many developed and developing states have not been fully responsible in complying with their responsibilities as flag states, port states, coastal states, states of vessel owners and trading nations.
- The FAO International Plan of Action to combat IUU fishing contains tools to tackle the IUU issue. The question is to find ways to better implement such tools.

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<sup>9</sup> The Workshop Chairs were Mr. Ignacio Escobar, Mr. Jean-François Pulvenis de Seligny, Mr. Nobuyuki Yagi, Ms Jane Willing and Ms Lori Ridgeway.

## **Information and Data Needs**

- In spite of recent improvements in information collection, there remains a lack of systematic and comprehensive information on the extent of IUU fishing operations and impacts. This is compounded by the varying level in quality, accessibility, reliability and usefulness of the available data.
- There are a number of international instruments addressing the collection of fisheries information and statistics. However, these need to be integrated and further, there remains a need for improvement in national statistics on trade in fish and fish products, especially in relation to IUU fishing.
- There is a diversity of actors involved in gathering, processing and disseminating information on IUU fishing activities — governments, intergovernmental organisations, RFMOs, regional fisheries bodies (RFBs), NGOs and industry.
- Trade-tracking and the resulting accumulation of information by market countries are an enormous task but it is very important for the creation of effective measures to combat IUU fishing.
- There is a need to broaden the scope of the information gathered so it covers activities and situations “upstream” and “downstream” of the IUU fishing operations themselves. This will help to better define the nature and scope of IUU fishing and to improve knowledge of the economic and social forces which drive IUU fishing in order to help target future actions.

## **Economic and Social Drivers**

- Under current conditions, IUU fishing activities can be extremely profitable due, amongst other factors, to lower cost structures than for compliant fishing activities. Strategies to combat IUU fishing need to include measures that reduce the relative benefits and raise the costs of IUU fishing.
- The demonstration effect achieved by government and RFMO efforts in fighting IUU fishing activities is significant. This will provide positive signals to legal fishers and send the message to IUU fishers that their products will be excluded from the international market and that their activities will not be tolerated.
- Inefficient domestic fisheries management may work as a driver for IUU fishing activities; the more economically efficient management is, the higher the fisher income will be, thus lessening the incentive to engage in IUU activities.
- The size of penalties and the risk of being apprehended is not generally a sufficient deterrent to IUU fishing activities. This is complicated by the ease of re-flagging vessels and the difficulties in tracking company structures and identifying beneficial owners of IUU vessels. The lack of harmonisation of penalties across countries is also a concern.
- IUU fishing inflicts damage on a law abiding fishing industry aiming at sustainable exploitation.
- IUU fishing activities also make it harder for countries to strike a balance between food security and protection of the marine environment.

## **Possible Actions**

- There is a wide range of possible measures that can be undertaken to address the problem of IUU fishing. These will need to cover legal, institutional, economic and social dimensions and will require the involvement of multiple players in the national, regional and international fisheries sectors.
- Determining the cost-effectiveness of alternate approaches to addressing IUU fishing problems should be undertaken to help identify priorities amongst the possible options so that the best results can be obtained from the limited resources that are available to national governments and international organisations.

## **Flag State actions**

- Links between flags of convenience and tax havens have been established and a more concerted approach towards both could be undertaken.
- There is a need to improve transparency on the procedures and conditions for re-flagging and de-flagging.
- More countries could usefully investigate the possibilities for applying extra-territorial rules for their nationals.
- The penalties for IUU fishing offences should be significantly increased and harmonised between jurisdictions.

## **Port State actions**

- The development of minimum guidelines for port state controls and actions against IUU fishers, particularly with respect to the use of prior notice and inspection requirements (including health and safety conditions), should be encouraged. The harmonisation of these controls and actions should be a priority.
- There is a need to ensure a broader use of port state control measures including inspections, preventing access to services and goods of IUU vessels.
- There needs to be an agreement to make it illegal to tranship, land and trade in IUU fish.
- There is also a need to improve the monitoring of the provision of at-sea services and transhipment of fish and fish products.

## **Coastal State actions and international trade responses**

- It is necessary to augment monitoring, control and surveillance capacities and improve fisheries management across the board, but in particular in developing countries.
- Improving and extending the use of catch and trade documentation schemes could help provide additional information on IUU fishing activities.
- Fair, transparent and non-discriminatory countermeasures should be adopted, consistent with international law, against countries that do not comply with the conservation and management

measures adopted by RFMOs, or fail to effectively control the vessels flying their flag, in order to ensure they comply with the conservation and management measures adopted by RFMOs.

- Countries should identify the area of catch, name of fishing vessels and their past history (of name and flag) in order to collect information necessary for better fisheries management and elimination of IUU fishing.

### **RFMO actions**

- Strengthening the mandate and role of RFMOs and RFBs, in particular their possibilities for tracking IUU fishing, is an important requirement.
- There is a need to improve information sharing and co-operation among RFMOs, particularly in terms of linking and integrating their data on IUU fishing activities.
- More RFMOs should consider publishing lists of companies and vessels engaged in high seas IUU fishing activities and lists of vessels that are authorized to fish. The use of positive and negative lists of IUU fishing vessels and companies is strongly encouraged in this regard.
- The creation of a global record/register of authorised fishing vessels that are technically capable of engaging in high seas fishing should be considered.

### **International co-ordination**

- Resources matter: more technical and financial resources are needed for capacity building, in particular in the developing states, for monitoring, control and surveillance, and in all activities to combat IUU activities.
- The international community should move to ratify relevant international treaties on labour and working conditions in the maritime sector in order to strengthen international hard and soft laws to protect fishing crews in general.
- Improved monitoring of foreign direct investments (out-going and in-coming) in the fishing sector will assist in tracking potential IUU fishing operations.
- Work should be undertaken nationally and multilaterally to lift the veil of corporate secrecy surrounding the companies undertaking IUU fishing activities and related services. Partnerships between public authorities and businesses offer important scope in the fight against IUU fishing. In this regard, the OECD Guidelines for Multinationals offer some possibilities that could be followed-up by national regulatory authorities.
- A major effort is required, in particular by regional fisheries management organisations and market countries, to collect and disseminate relevant information.
- The efforts already underway to improve information at all levels and mechanisms to share information need to be supported and strengthened.

### **NGO and private sector actions**

- Whenever possible, governments should consider bilateral consultation with businesses engaged in IUU activities to determine if alternative means of getting IUU vessels out of the business can be found.
- There should be continued efforts to communicate the IUU problem, for example through promotional/educational campaigns with the market, including intermediate buyers, processors, distributors and consumers. Such activities will help raise awareness of the problem and improve the knowledge of the social, economic and environmental consequences of IUU activities.
- Industry and NGOs should be encouraged to continue to self-organise their response to IUU fishing and information collection.