

**CODE OF CONDUCT**

**FOR**

**RESPONSIBLE FISHERIES**



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**RESPONSIBLE FISHERIES**

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## PREFACE

From ancient times, fishing has been a major source of food for humanity and a provider of employment and economic benefits to those engaged in this activity. The wealth of aquatic resources was assumed to be an unlimited gift of nature. However, with increased knowledge and the dynamic development of fisheries after the second world war, this myth has faded in face of the realization that aquatic resources, although renewable, are not infinite and need to be properly managed, if their contribution to the nutritional, economic and social well-being of the growing world's population is to be sustained.

The widespread introduction in the mid-seventies of exclusive economic zones (EEZs) and the adoption in 1982, after long deliberations, of the United Nations Convention on the Law of the Sea provided a new framework for the better management of marine resources. The new legal regime of the ocean gave coastal States rights and responsibilities for the management and use of fishery resources within their EEZs which embrace some 90 percent of the world's marine fisheries. Such extended national jurisdiction was a necessary but insufficient step toward the efficient management and sustainable development of fisheries. Many coastal States continued to face serious challenges as, lacking, experience and financial and physical resources, they sought to extract greater benefits from the fisheries within their EEZs.

In recent years, world fisheries have become a market-driven, dynamically developing sector of the food industry and coastal States have striven to take advantage of their new opportunities by investing in modern fishing fleets and processing factories in response to growing international demand for fish and fishery products. By the late 1980s it became clear, however, that fisheries resources could no longer sustain such rapid and often uncontrolled exploitation and development, and that new approaches to fisheries management embracing conservation and environmental considerations were urgently needed. The situation was aggravated by the realization that unregulated fisheries on the high seas, in some cases involving straddling and highly migratory fish species, which occur within and outside EEZs, were becoming a matter of increasing concern.

The Committee on Fisheries (COFI) at its Nineteenth Session in March 1991 called for the development of new concepts which would lead to responsible, sustained fisheries. Subsequently, the International Conference on Responsible Fishing, held in 1992 in Cancún (Mexico) further requested FAO to prepare an international Code of Conduct to address these concerns. The outcome of this Conference, particularly the Declaration of Cancún, was an important contribution to the 1992 United Nations Conference on Environment and Development (UNCED), in particular its Agenda 21. Subsequently, the United

Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened, to which FAO provided important technical back-up. In November 1993, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas was adopted at the Twenty-seventh Session of the FAO Conference.

Noting these and other important developments in world fisheries, the FAO Governing Bodies recommended the formulation of a global Code of Conduct for Responsible Fisheries which would be consistent with these instruments and, in a non-mandatory manner, establish principles and standards applicable to the conservation, management and development of all fisheries. The Code, which was unanimously adopted on 31 October 1995 by the FAO Conference, provides a necessary framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment.

FAO, in accordance with its mandate, is fully committed to assisting Member States, particularly developing countries, in the efficient implementation of the Code of Conduct for Responsible Fisheries and will report to the United Nations community on the progress achieved and further action required.

## INTRODUCTION

Fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic well-being for people throughout the world, both for present and future generations and should therefore be conducted in a responsible manner. This Code 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. The Code recognizes the nutritional, economic, social, environmental and cultural importance of fisheries and the interests of all those concerned with the fishery sector. The Code takes into account the biological characteristics of the resources and their environment and the interests of consumers and other users. States and all those involved in fisheries are encouraged to apply the Code and give effect to it.

### ARTICLE 1 - NATURE AND SCOPE OF THE CODE

1.1 This Code is voluntary. However, certain parts of it are based on relevant rules of international law, including those reflected in the United Nations Convention on the Law of the Sea of 10 December 1982<sup>1</sup>. The Code also contains provisions that may be or have already been given binding effect by means of other obligatory legal instruments amongst the Parties, such as the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, which, according to FAO Conference resolution 15/93, paragraph 3, forms an integral part of the Code.

1.2 The Code is global in scope, and is directed toward members and non-members of FAO, fishing entities, sub regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries, such as fishers, those engaged in processing and marketing of fish and fishery products and other users of the aquatic environment in relation to fisheries.

1.3 The Code provides principles and standards applicable to the conservation, management and development of all fisheries. It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

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<sup>1</sup> References in this Code; to the United Nations Convention on the Law of the Sea, 1982, or to other international agreements do not prejudice the position of any State with respect to signature, ratification or accession to the Convention or with respect to such other agreements.



1.4 In this Code, the reference to States includes the European Community in matters within its competence, and the term fisheries applies equally to capture fisheries and aquaculture.

#### **ARTICLE 2 - OBJECTIVES OF THE CODE**

The objectives of the Code are to:

- a) establish principles, in accordance with the relevant rules of international law, for responsible fishing and fisheries activities, taking into account all their relevant biological, technological, economic, social, environmental and commercial aspects;
- b) establish principles and criteria for the elaboration and implementation of national policies for responsible conservation of fisheries resources and fisheries management and development;
- c) serve as an instrument of reference to help States to establish or to improve the legal and institutional framework required for the exercise of responsible fisheries and in the formulation and implementation of appropriate measures;
- d) provide guidance which may be used where appropriate in the formulation and implementation of international agreements and other legal instruments, both binding and voluntary;
- e) facilitate and promote technical, financial and other cooperation in conservation of fisheries resources and fisheries management and development;
- f) promote the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities;
- g) promote protection of living aquatic resources and their environments and coastal areas;
- h) promote the trade of fish and fishery products in conformity with relevant international rules and avoid the use of measures that constitute hidden barriers to such trade;

- i) promote research on fisheries as well as on associated ecosystems and relevant environmental factors; and
- j) provide standards of conduct for all persons involved in the fisheries sector.

#### **ARTICLE 3 - RELATIONSHIP WITH OTHER INTERNATIONAL INSTRUMENTS**

3.1 The Code is to be interpreted and applied in conformity with the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea, 1982. Nothing in this Code prejudices the rights, jurisdiction and duties of States under international law as reflected in the Convention.

3.2 The Code is also to be interpreted and applied:

- a) in a manner consistent with the relevant provisions of the Agreement for the Implementation of the Provisions of the United Nations 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;
- b) in accordance with other applicable rules of international law, including the respective obligations of States pursuant to international agreements to which they are party; and
- c) in the light of the 1992 Declaration of Cancún, the 1992 Rio Declaration on Environment and Development, and Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED), in particular Chapter 17 of Agenda 21, and other relevant declarations and international instruments.

#### **ARTICLE 4 - IMPLEMENTATION, MONITORING AND UPDATING**

4.1 All members and non-members of FAO, fishing entities and relevant sub-regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation, management and utilization of fisheries resources and trade in fish and fishery products should collaborate in the fulfillment and implementation of the objectives and principles contained in this Code.

4.2 FAO, in accordance with its role within the United Nations system, will monitor the application and implementation of the Code and its effects on fisheries and the Secretariat will report accordingly to the Committee on Fisheries (COFI).

All States, whether members or non-members of FAO, as well as relevant international organizations, whether governmental or non-governmental should actively cooperate with FAO in this work.

4.3 FAO, through its competent bodies, may revise the Code, taking into account developments in fisheries as well as reports to COFI on the implementation of the Code.

4.4 States and international organizations, whether governmental or non-governmental, should promote the understanding of the Code among those involved in fisheries, including, where practicable, by the introduction of schemes which would promote voluntary acceptance of the Code and its effective application.

#### **ARTICLE 5 - SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES**

5.1 The capacity of developing countries to implement the recommendations of this Code should be duly taken into account.

5.2 In order to achieve the objectives of this Code and to support its effective implementation, countries, relevant international organizations, whether governmental or non-governmental, and financial institutions should give full recognition to the special circumstances and requirements of developing countries, including in particular the least-developed among them, and small island developing countries. States, relevant intergovernmental and non-governmental organizations and financial institutions should work for the adoption of measures to address the needs of developing countries, especially in the areas of financial and technical assistance, technology transfer, training and scientific cooperation and in enhancing their ability to develop their own fisheries as well as to participate in high seas fisheries, including access to such fisheries.

#### **ARTICLE 6 - GENERAL PRINCIPLES**

6.1 States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources.

6.2 Fisheries management should promote the maintenance of the quality, diversity and availability of fishery resources in sufficient quantities for present and future generations in the context of food security, poverty alleviation and sustainable development. Management measures should not only ensure the conservation of

target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species.

6.3 States should prevent over fishing and excess fishing capacity and should implement management measures to ensure that fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate.

6.4 Conservation and management decisions for fisheries should be based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic and social factors. States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate.

6.5 States and subregional and regional fisheries management organizations should apply a precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment, taking account of the best scientific evidence available. The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment.

6.6 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. States and users of aquatic ecosystems should minimize waste, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species.

6.7 The harvesting, handling, processing and distribution of fish and fishery products should be carried out in a manner which will maintain the nutritional value, quality and safety of the products, reduce waste and minimize negative impacts on the environment.

6.8 All critical fisheries habitats in marine and fresh water ecosystems, such as wetlands, mangroves, reefs, lagoons, nursery and spawning areas, should be protected and rehabilitated as far as possible and where necessary. Particular effort should be made to protect such habitats from destruction, degradation, pollution and other significant impacts resulting from human activities that threaten the health and viability of the fishery resources.

6.9 States should ensure that their fisheries interests, including the need for conservation of the resources, are taken into account in the multiple uses of the coastal zone and are integrated into coastal area management, planning and development.

6.10 Within their respective competences and in accordance with international law, including within the framework of subregional or regional fisheries conservation and management organizations or arrangements, States should ensure compliance with and enforcement of conservation and management measures and establish effective mechanisms, as appropriate, to monitor and control the activities of fishing vessels and fishing support vessels.

6.11 States authorizing fishing and fishing support vessels to fly their flags should exercise effective control over those vessels so as to ensure the proper application of this Code. They should ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels. States should also ensure that vessels flying their flags fulfill their obligations concerning the collection and provision of data relating to their fishing activities.

6.12 States should, within their respective competences and in accordance with international law, cooperate at subregional, regional and global levels through fisheries management organizations, other international agreements or other arrangements to promote conservation and management, ensure responsible fishing and ensure effective conservation and protection of living aquatic resources throughout their range of distribution, taking into account the need for compatible measures in areas within and beyond national jurisdiction.

6.13 States should, to the extent permitted by national laws and regulations, ensure that decision making processes are transparent and achieve timely solutions to urgent matters. States, in accordance with appropriate procedures, should facilitate consultation and the effective participation of industry, fishworkers, and other stakeholders in the management of fisheries resources. States should ensure that the management of fisheries resources is based on the best available scientific information and that the management measures are effective and enforceable.

development of laws and policies related to fisheries management, development, international lending and aid.

6.14 International trade in fish and fishery products should be conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement and other relevant international agreements. States should ensure that their policies, programmes and practices related to trade in fish and fishery products do not result in obstacles to this trade, environmental degradation or negative social, including nutritional, impacts.

6.15 States should cooperate in order to prevent disputes. All disputes relating to fishing activities and practices should be resolved in a timely, peaceful and cooperative manner, in accordance with applicable international agreements or as may otherwise be agreed between the parties. Pending settlement of a dispute, the States concerned should make every effort to enter into provisional arrangements of a practical nature which should be without prejudice to the final outcome of any dispute settlement procedure.

6.16 States, recognising the paramount importance to fishers and fishfarmers of understanding the conservation and management of the fishery resources on which they depend, should promote awareness of responsible fisheries through education and training. They should ensure that fishers and fishfarmers are involved in the policy formulation and implementation process, also with a view to facilitating the implementation of the Code.

6.17 States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.

6.18 Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

6.19 States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.

**ARTICLE 7 - FISHERIES MANAGEMENT****7.1 General**

7.1.1 States and all those engaged in fisheries management should, through an appropriate policy, legal and institutional framework, adopt measures for the longterm conservation and sustainable use of fisheries resources. Conservation and management measures, whether at local, national, subregional or regional levels, should be based on the best scientific evidence available and be designed to ensure the long-term sustainability of fishery resources at levels which promote the objective of their optimum utilization and maintain their availability for present and future generations; short-term considerations should not compromise these objectives.

7.1.2 Within areas under national jurisdiction, States should seek to identify relevant domestic parties having a legitimate interest in the use and management of fisheries resources and establish arrangements for consulting them to gain their collaboration in achieving responsible fisheries.

7.1.3 For transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks, where these are exploited by two or more States, the States concerned, including the relevant coastal States in the case of straddling and highly migratory stocks, should cooperate to ensure effective conservation and management of the resources. This should be achieved, where appropriate, through the establishment of a bilateral, subregional or regional fisheries organization or arrangement.

7.1.4 A subregional or regional fisheries management organization or arrangement should include representatives of States in whose jurisdictions the resources occur, as well as representatives from States which have a real interest in the fisheries or the resources outside national jurisdictions. Where a subregional or regional fisheries management organization or arrangement exists and has the competence to establish conservation and management measures, those States should cooperate by becoming a member of such organization or a participant in such arrangement, and actively participate in its work.

7.1.5 A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement should nevertheless cooperate, in accordance with relevant international agreements and international law, in the conservation and management of the relevant fisheries resources by giving effect to any conservation and management measures adopted by such organization or arrangement.

7.1.6 Representatives from relevant organizations, both governmental and non-governmental, concerned with fisheries should be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such representative should be given timely access to the records and reports of such meetings, subject to the procedural rules on access to them.

7.1.7 States should establish, within their respective competences and capacities, effective mechanisms for fisheries monitoring, surveillance, control and enforcement to ensure compliance with their conservation and management measures, as well as those adopted by subregional or regional organizations or arrangements.

7.1.8 States should take measures to prevent or eliminate excess fishing capacity and should ensure that levels of fishing effort are commensurate with the sustainable use of fishery resources as a means of ensuring the effectiveness of conservation and management measures.

7.1.9 States and subregional or regional fisheries management organizations and arrangements should ensure transparency in the mechanisms for fisheries management and in the related decision-making process.

7.1.10 States and subregional or regional fisheries management organizations and arrangements should give due publicity to conservation and management measures and ensure that laws, regulations and other legal rules governing their implementation are effectively disseminated. The bases and purposes of such measures should be explained to users of the resource in order to facilitate their application and thus gain increased support in the implementation of such measures.

## **7.2 Management objectives**

7.2.1 Recognizing that long-term sustainable use of fisheries resources is the overriding objective of conservation and management, States and subregional or regional fisheries management organizations and arrangements should, *inter alia*, adopt appropriate measures, based on the best scientific evidence available, which are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing countries.



7.2.2 Such measures should provide *inter alia* that:

- a) excess fishing capacity is avoided and exploitation of the stocks remains economically viable;
- b) the economic conditions under which fishing industries operate promote responsible fisheries;
- c) the interests of fishers, including those engaged in subsistence, small-scale and artisanal fisheries, are taken into account;
- d) biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected;
- e) depleted stocks are allowed to recover or, where appropriate, are actively restored;
- f) adverse environmental impacts on the resources from human activities are assessed and, where appropriate, corrected; and
- g) pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species are minimized, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

7.2.3 States should assess the impacts of environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks, and assess the relationship among the populations in the ecosystem.

### **7.3 Management framework and procedures**

7.3.1 To be effective, fisheries management should be concerned with the whole stock unit over its entire area of distribution and take into account previously agreed management measures established and applied in the same region, all removals and the biological unity and other biological characteristics of the stock. The best scientific evidence available should be used to determine, *inter alia*, the area of distribution of the resource and the area through which it migrates during its life cycle.

7.3.2 In order to conserve and manage transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks throughout their range,

conservation and management measures established for such stocks in accordance with the respective competences of relevant States or, where appropriate, through subregional and regional fisheries management organizations and arrangements, should be compatible. Compatibility should be achieved in a manner consistent with the rights, competences and interests of the States concerned.

7.3.3 Long-term management objectives should be translated into management actions, formulated as a fishery management plan or other management framework.

7.3.4 States and, where appropriate, subregional or regional fisheries management organizations and arrangements should foster and promote international cooperation and coordination in all matters related to fisheries, including information gathering and exchange, fisheries research, management and development.

7.3.5 States seeking to take any action through a non-fishery organization which may affect the conservation and management measures taken by a competent subregional or regional fisheries management organization or arrangement should consult with the latter, in advance to the extent practicable, and take its views into account.

#### **7.4 Data gathering and management advice**

7.4.1 When considering the adoption of conservation and management measures, the best scientific evidence available should be taken into account in order to evaluate the current state of the fishery resources and the possible impact of the proposed measures on the resources.

7.4.2 Research in support of fishery conservation and management should be promoted, including research on the resources and on the effects of climatic, environmental and socio-economic factors. The results of such research should be disseminated to interested parties.

7.4.3 Studies should be promoted which provide an understanding of the costs, benefits and effects of alternative management options designed to rationalize fishing, in particular, options relating to excess fishing capacity and excessive levels of fishing effort.

7.4.4 States should ensure that timely, complete and reliable statistics on catch and fishing effort are collected and maintained in accordance with applicable international standards and practices and in sufficient detail to allow sound statistical analysis. Such data should be updated regularly and verified through an appropriate

system. States should compile and disseminate such data in a manner consistent with any applicable confidentiality requirements.

7.4.5 In order to ensure sustainable management of fisheries and to enable social and economic objectives to be achieved, sufficient knowledge of social, economic and institutional factors should be developed through data gathering, analysis and research.

7.4.6 States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organizations or arrangements in an internationally agreed format and provide them in a timely manner to the organization or arrangement. In cases of stocks which occur in the jurisdiction of more than one State and for which there is no such organization or arrangement, the States concerned should agree on a mechanism for cooperation to compile and exchange such data.

7.4.7 Subregional or regional fisheries management organizations or arrangements should compile data and make them available, in a manner consistent with any applicable confidentiality requirements, in a timely manner and in an agreed format to all members of these organizations and other interested parties in accordance with agreed procedures.

## **7.5 Precautionary approach**

7.5.1 States should apply the precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.

7.5.2 In implementing the precautionary approach, States should take into account, *inter alia*, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities, including discards, on non-target and associated or dependent species as well as environmental and socio-economic conditions.

7.5.3 States and subregional or regional fisheries management organizations and arrangements should, on the basis of the best scientific evidence available, *inter alia*, determine:

- a) stock specific target reference points, and, at the same time, the action to be taken if they are exceeded; and
- b) stock specific limit reference points and, at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded.

7.5.4 In the case of new or exploratory fisheries, States should adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures should remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment should be implemented. The latter measures should, if appropriate, allow for the gradual development of the fisheries.

7.5.5 If a natural phenomenon has a significant adverse impact on the status of living aquatic resources, States should adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States should also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such resources. Measures taken on an emergency basis should be temporary and should be based on the best scientific evidence available.

## **7.6 Management measures**

7.6.1 States should ensure that the level of fishing permitted is commensurate with the state of fisheries resources.

7.6.2 States should adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with international law for the high seas or in conformity with national legislation within areas of national jurisdiction.

7.6.3 Where excess fishing capacity exists, mechanisms should be established to reduce capacity to levels commensurate with the sustainable use of fisheries resources so as to ensure that fishers operate under economic conditions that promote responsible fisheries. Such mechanisms should include monitoring the capacity of fishing fleets.

7.6.4 The performance of all existing fishing gear, methods and practices should be examined and measures taken to ensure that fishing gear, methods and practices

which are not consistent with responsible fishing are phased out and replaced with more acceptable alternatives. In this process, particular attention should be given to the impact of such measures on fishing communities, including their ability to exploit the resource.

7.6.5 States and fisheries management organizations and arrangements should regulate fishing in such a way as to avoid the risk of conflict among fishers using different vessels, gear and fishing methods.

7.6.6 When deciding on the use, conservation and management of fisheries resources, due recognition should be given, as appropriate, in accordance with national laws and regulations, to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resources for their livelihood.

7.6.7 In the evaluation of alternative conservation and management measures, their cost-effectiveness and social impact should be considered.

7.6.8 The efficacy of conservation and management measures and their possible interactions should be kept under continuous review. Such measures should, as appropriate, be revised or abolished in the light of new information.

7.6.9 States should take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and negative impacts on associated or dependent species, in particular endangered species. Where appropriate, such measures may include technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries. Such measures should be applied, where appropriate, to protect juveniles and spawners. States and sub-regional or regional fisheries management organizations and arrangements should promote, to the extent practicable, the development and use of selective, environmentally safe and cost effective gear and techniques.

7.6.10 States and subregional and regional fisheries management organizations and arrangements, in the framework of their respective competences, should introduce measures for depleted resources and those resources threatened with depletion that facilitate the sustained recovery of such stocks. They should make every effort to ensure that resources and habitats critical to the well-being of such resources which have been adversely affected by fishing or other human activities are restored.

## **7.7 Implementation**

7.7.1 States should ensure that an effective legal and administrative framework at the local and national level, as appropriate, is established for fisheries resource conservation and fisheries management.

7.7.2 States should ensure that laws and regulations provide for sanctions applicable in respect of violations which are adequate in severity to be effective, including sanctions which allow for the refusal, withdrawal or suspension of authorizations to fish in the event of non-compliance with conservation and management measures in force.

7.7.3 States, in conformity with their national laws, should implement effective fisheries monitoring, control, surveillance and law enforcement measures including, where appropriate, observer programmes, inspection schemes and vessel monitoring systems. Such measures should be promoted and, where appropriate, implemented by subregional or regional fisheries management organizations and arrangements in accordance with procedures agreed by such organizations or arrangements.

7.7.4 States and subregional or regional fisheries management organizations and arrangements, as appropriate, should agree on the means by which the activities of such organizations and arrangements will be financed, bearing in mind, *inter alia*, the relative benefits derived from the fishery and the differing capacities of countries to provide financial and other contributions. Where appropriate, and when possible, such organizations and arrangements should aim to recover the costs of fisheries conservation, management and research.

7.7.5 States which are members of or participants in subregional or regional fisheries management organizations or arrangements should implement internationally agreed measures adopted in the framework of such organizations or arrangements and consistent with international law to deter the activities of vessels flying the flag of non-members or non-participants which engage in activities which undermine the effectiveness of conservation and management measures established by such organizations or arrangements.

## **7.8 Financial institutions**

7.8.1 Without prejudice to relevant international agreements, States should encourage banks and financial institutions not to require, as a condition of a loan or mortgage, fishing vessels or fishing support vessels to be flagged in a jurisdiction other than that of the State of beneficial ownership where such a requirement would

have the effect of increasing the likelihood of non-compliance with international conservation and management measures.

#### **ARTICLE 8 - FISHING OPERATIONS**

##### **8.1 Duties of all States**

8.1.1 States should ensure that only fishing operations allowed by them are conducted within waters under their jurisdiction and that these operations are carried out in a responsible manner.

8.1.2 States should maintain a record, updated at regular intervals, on all authorizations to fish issued by them.

8.1.3 States should maintain, in accordance with recognized international standards and practices, statistical data, updated at regular intervals, on all fishing operations allowed by them.

8.1.4 States should, in accordance with international law, within the framework of subregional or regional fisheries management organizations or arrangements, cooperate to establish systems for monitoring, control, surveillance and enforcement of applicable measures with respect to fishing operations and related activities in waters outside their national jurisdiction.

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.

8.1.6 States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems.

8.1.7 States should enhance through education and training programmes the education and skills of fishers and, where appropriate, their professional qualifications. Such programmes should take into account agreed international standards and guidelines.

8.1.8 States should, as appropriate, maintain records of fishers which should, whenever possible, contain information on their service and qualifications, including certificates of competency, in accordance with their national laws.

8.1.9 States should ensure that measures applicable in respect of masters and other officers charged with an offence relating to the operation of fishing vessels should include provisions which may permit, *inter alia*, refusal, withdrawal or suspension of authorizations to serve as masters or officers of a fishing vessel.

8.1.10 States, with the assistance of relevant international organizations, should endeavour to ensure through education and training that all those engaged in fishing operations be given information on the most important provisions of this Code, as well as provisions of relevant international conventions and applicable environmental and other standards that are essential to ensure responsible fishing operations.

## **8.2 Flag State duties**

8.2.1 Flag States should maintain records of fishing vessels entitled to fly their flag and authorized to be used for fishing and should indicate in such records details of the vessels, their ownership and authorization to fish.

8.2.2 Flag States should ensure that no fishing vessels entitled to fly their flag fish on the high seas or in waters under the jurisdiction of other States unless such vessels have been issued with a Certificate of Registry and have been authorized to fish by the competent authorities. Such vessels should carry on board the Certificate of Registry and their authorization to fish.

8.2.3 Fishing vessels authorized to fish on the high seas or in waters under the jurisdiction of a State other than the flag State, should be marked in accordance with uniform and internationally recognizable vessel marking systems such as the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels.

8.2.4 Fishing gear should be marked in accordance with national legislation in order, that the owner of the gear can be identified. Gear marking requirements should take into account uniform and internationally recognizable gear marking systems.

8.2.5 Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.



8.2.6 States not party to the Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas should be encouraged to accept the Agreement and to adopt laws and regulations consistent with the provisions of the Agreement.

8.2.7 Flag States should take enforcement measures in respect of fishing vessels entitled to fly their flag which have been found by them to have contravened applicable conservation and management measures, including, where appropriate, making the contravention of such measures an offence under national legislation. Sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities. Such sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish.

8.2.8 Flag States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.

8.2.9 Flag States should ensure that crew members are entitled to repatriation, taking account of the principles laid down in the "Repatriation of Seafarers Convention (Revised), 1987, (No.166)".

8.2.10 In the event of an accident to a fishing vessel or persons on board a fishing vessel, the flag State of the fishing vessel concerned should provide details of the accident to the State of any foreign national on board the vessel involved in the accident. Such information should also, where practicable, be communicated to the International Maritime Organization.

### **8.3 Port State duties**

8.3.1 Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

8.3.2 Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention, of pollution and for safety, health and conditions of work on board fishing vessels.

#### **8.4 Fishing operations**

8.4.1 States should ensure that fishing is conducted with due regard to the safety of human life and the International Maritime Organization International Regulations for Preventing Collisions at Sea, as well as International Maritime Organization requirements relating to the organization of marine traffic, protection of the marine environment and the prevention of damage to or loss of fishing gear.

8.4.2 States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

8.4.3 States should make every effort to ensure that documentation with regard to fishing operations, retained catch of fish and non-fish species and, as regards discards, the information required for stock assessment as decided by relevant management bodies, is collected and forwarded systematically to those bodies. States should, as far as possible, establish programmes, such as observer and inspection schemes, in order to promote compliance with applicable measures.

8.4.4 States should promote the adoption of appropriate technology, taking into account economic conditions, for the best use and care of the retained catch.

8.4.5 States, with relevant groups from industry, should encourage the development and implementation of technologies and operational methods that reduce discards. The use of fishing gear and practices that lead to the discarding of catch should be discouraged and the use of fishing gear and practices that increase survival rates of escaping fish should be promoted.

8.4.6 States should cooperate to develop and apply technologies, materials and operational methods that minimize the loss of fishing gear and the ghost fishing effects of lost or abandoned fishing gear.

8.4.7 States should ensure that assessments of the implications of habitat disturbance are carried out prior to the introduction on a commercial scale of new fishing gear, methods and operations to an area.

8.4.8 Research on the environmental and social impacts of fishing gear and, in particular, on the impact of such gear on biodiversity and coastal fishing communities should be promoted.

## **8.5 Fishing gear selectivity**

8.5.1 States should require that fishing gear, methods and practices, to the extent practicable, are sufficiently selective so as to minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species and that the intent of related regulations is not circumvented by technical devices. In this regard, fishers should cooperate in the development of selective fishing gear and methods. States should ensure that information on new developments and requirements is made available to all fishers.

8.5.2 In order to improve selectivity, States should, when drawing up their laws and regulations, take into account the range of selective fishing gear, methods and strategies available to the industry.

8.5.3 States and relevant institutions should collaborate in developing standard methodologies for research into fishing gear selectivity, fishing methods and strategies.

8.5.4 International cooperation should be encouraged with respect to research programmes for fishing gear selectivity, and fishing methods and strategies, dissemination of the results of such research programmes and the transfer of technology.

## **8.6 Energy optimization**

8.6.1 States should promote the development of appropriate standards and guidelines which would lead to the more efficient use of energy in harvesting and postharvest activities within the fisheries sector.

8.6.2 States should promote the development and transfer of technology in relation to energy optimization within the fisheries sector and, in particular, encourage owners, charterers and managers of fishing vessels to fit energy optimization devices to their vessels.

## **8.7 Protection of the aquatic environment**

8.7.1 States should introduce and enforce laws and regulations based on the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

8.7.2 Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with appropriate equipment as required by MARPOL 73/78 and should consider fitting a shipboard compactor or incinerator to relevant classes of vessels in order to treat garbage and other shipboard wastes generated during the vessel's normal service.

8.7.3 Owners, charterers and managers of fishing vessels should minimize the taking aboard of potential garbage through proper provisioning practices.

8.7.4 The crew of fishing vessels should be conversant with proper shipboard procedures in order to ensure discharges do not exceed the levels set by MARPOL 73/78. Such procedures should, as a minimum, include the disposal of oily waste and the handling and storage of shipboard garbage.

## **8.8 Protection of the atmosphere**

8.8.1 States should adopt relevant standards and guidelines which would include provisions for the reduction of dangerous substances in exhaust gas emissions.

8.8.2 Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with equipment to reduce emissions of ozone depleting substances. The responsible crew members of fishing vessels should be conversant with the proper running and maintenance of machinery on board.

8.8.3 Competent authorities should make provision for the phasing out of the use of chlorofluorocarbons (CFCs) and transitional substances such as hydrochlorofluorocarbons (HCFCs) in the refrigeration systems of fishing vessels and should ensure that the shipbuilding industry and those engaged in the fishing industry are informed of and comply with such provisions.

8.8.4 Owners or managers of fishing vessels should take appropriate action to refit existing vessels with alternative refrigerants to CFCs and HCFCs and alternatives to Halons in fire fighting installations. Such alternatives should be used in specifications for all new fishing vessels.

8.8.5 States and owners, charterers and managers of fishing vessels as well as fishers should follow international guidelines for the disposal of CFCs, HCFCs and Halons.

#### **8.9 Harbours and landing places for fishing vessels**

8.9.1 States should take into account, inter alia, the following in the design and construction of harbours and landing places:

- a) safe havens for fishing vessels and adequate servicing facilities for vessels, vendors and buyers are provided;
- b) adequate freshwater supplies and sanitation arrangements should be provided;
- c) waste disposal systems should be introduced, including for the disposal of oil, oily water and fishing gear;
- d) pollution from fisheries activities and external sources should be minimized; and
- e) arrangements should be made to combat the effects of erosion and siltation.

8.9.2 States should establish an institutional framework for the selection or improvement of sites for harbours for fishing vessels which allows for consultation among the authorities responsible for coastal area management.

#### **8.10 Abandonment of structures and other materials**

8.10.1 States should ensure that the standards and guidelines for the removal of redundant offshore structures issued by the International Maritime Organization are followed. States should also ensure that the competent fisheries authorities are consulted prior to decisions being made on the abandonment of structures and other materials by the relevant authorities.

#### **8.11 Artificial reefs and fish aggregation devices**

8.11.1 States, where appropriate, should develop policies for increasing stock populations and enhancing fishing opportunities through the use of artificial structures, placed with due regard to the safety of navigation, on or above the seabed or at the surface. Research into the use of such structures, including the impacts on living marine resources and the environment, should be promoted.

8.11.2 States should ensure that, when selecting the materials to be used in the creation of artificial reefs as well as when selecting the geographical location of such artificial reefs, the provisions of relevant international conventions concerning the environment and safety of navigation are observed.

8.11.3 States should, within the framework of coastal area management plan, establish management systems for artificial reefs and fish aggregation devices. Such management systems should require approval for the construction and deployment of such reefs and devices and should take into account the interests of fishers, including artisanal and subsistence fishers.

8.11.4 States should ensure that the authorities responsible for maintaining cartographic records and charts for the purpose of navigation, as well as relevant environmental authorities, are informed prior to the placement or removal of artificial reefs or fish aggregation devices.

#### ARTICLE 9 - AQUACULTURE DEVELOPMENT

##### **9.1 Responsible development of aquaculture, including culture-based fisheries, in areas under national jurisdiction**

9.1.1 States should establish, maintain and develop an appropriate legal and administrative framework which facilitates the development of responsible aquaculture.

9.1.2 States should promote responsible development and management of aquaculture, including an advance evaluation of the effects of aquaculture development on genetic diversity and ecosystem integrity, based on the best available scientific information.

9.1.3 States should produce and regularly update aquaculture development strategies and plans, as required, to ensure that aquaculture development is ecologically sustainable and to allow the rational use of resources shared by aquaculture and other activities.

9.1.4 States should ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments.

9.1.5 States should establish effective procedures specific to aquaculture to undertake appropriate environmental assessment and monitoring with the aim of minimizing adverse ecological changes and related economic and social consequences

resulting from water extraction, land use, discharge of effluents, use of drugs and chemicals, and other aquaculture activities.

**9.2 Responsible development of aquaculture including culture-based fisheries within transboundary aquatic ecosystems**

9.2.1 States should protect transboundary aquatic ecosystems by supporting responsible aquaculture practices within their national jurisdiction and by cooperation in the promotion of sustainable aquaculture practices.

9.2.2 States should, with due respect to their neighbouring States and in accordance with international law, ensure responsible choice of species, siting and management of aquaculture activities which could affect transboundary aquatic ecosystems.

9.2.3 States should consult with their neighbouring States, as appropriate, before introducing non-indigenous species into transboundary aquatic ecosystems.

9.2.4 States should establish appropriate mechanisms, such as databases and information networks to collect, share and disseminate data related to their aquaculture activities to facilitate cooperation on planning for aquaculture development at the national, subregional, regional and global level.

9.2.5 States should cooperate in the development of appropriate mechanisms, when required, to monitor the impacts of inputs used in aquaculture.

**9.3 Use of aquatic genetic resources for the purposes of aquaculture including culture-based fisheries**

9.3.1 States should conserve genetic diversity and maintain integrity of aquatic communities and ecosystems by appropriate management. In particular, efforts should be undertaken to minimize the harmful effects of introducing non-native species or genetically altered stocks used for aquaculture including culture-based fisheries into waters, especially where there is a significant potential for the spread of such non-native species or genetically altered stocks into waters under the jurisdiction of other States as well as waters under the jurisdiction of the State of origin. States should, whenever possible, promote steps to minimize adverse genetic, Disease and other effects of escaped farmed fish on wild stocks.

9.3.2 States should cooperate in the elaboration, adoption and implementation of international codes of practice and procedures for introductions and transfers of aquatic organisms.

9.3.3 States should, in order to minimize risks of disease transfer and other adverse effects on wild and cultured stocks, encourage adoption of appropriate practices in the genetic improvement of broodstocks, the introduction of non-native species, and in the production, sale and transport of eggs, larvae or fry, broodstock or other live materials. States should facilitate the preparation and implementation of appropriate national codes of practice and procedures to this effect.

9.3.4 States should promote the use of appropriate procedures for the selection of broodstock and the production of eggs, larvae and fry.

9.3.5 States should, where appropriate, promote research and, when feasible, the development of culture techniques for endangered species to protect, rehabilitate and enhance their stocks, taking into account the critical need to conserve genetic diversity of endangered species.

#### **9.4 Responsible aquaculture at the production level**

9.4.1 States should promote responsible aquaculture practices in support of rural communities, producer organizations and fish farmers.

9.4.2 States should promote active participation of fishfarmers and their communities in the development of responsible aquaculture management practices.

9.4.3 States should promote efforts which improve selection and use of appropriate feeds, feed additives and fertilizers, including manures.

9.4.4 States should promote effective farm and fish health management practices favouring hygienic measures and vaccines. Safe, effective and minimal use of therapeutants, hormones and drugs, antibiotics and other disease control chemicals should be ensured.

9.4.5 States should regulate the use of chemical inputs in aquaculture which are hazardous to human health and the environment.

9.4.6 States should require that the disposal of wastes such as offal, sludge, dead or diseased fish, excess veterinary drugs and other hazardous chemical inputs does not constitute a hazard to human health and the environment.

9.4.7 States should ensure the food safety of aquaculture products and promote efforts which maintain product quality and improve their value through particular



care before and during harvesting and on-site processing and in storage and transport of the products.

#### **ARTICLE 10 - INTEGRATION OF FISHERIES INTO COASTAL AREA MANAGEMENT**

##### **10.1 Institutional framework**

10.1.1 States should ensure that an appropriate policy, legal and institutional framework is adopted to achieve the sustainable and integrated use of the resources, taking into account the fragility of coastal ecosystems and the finite nature of their natural resources and the needs of coastal communities.

10.1.2 In view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes and involved in other activities related to coastal area management planning and development.

10.1.3 States should develop, as appropriate, institutional and legal frameworks in order to determine the possible uses of coastal resources and to govern access to them taking into account the rights of coastal fishing communities and their customary practices to the extent compatible with sustainable development.

10.1.4 States should facilitate the adoption of fisheries practices that avoid conflict among fisheries resources users and between them and other users of the coastal area.

10.1.5 States should promote the establishment of procedures and mechanisms at the appropriate administrative level to settle conflicts which arise within the fisheries sector and between fisheries resource users and other users of the coastal area.

##### **10.2 Policy measures**

10.2.1 States should promote the creation of public awareness of the need for the protection and management of coastal resources and the participation in the management process by those affected.

10.2.2 In order to assist decision-making on the allocation and use of coastal resources, States should promote the assessment of their respective value taking into account economic, social and cultural factors.

10.2.3 In setting policies for the management of coastal areas, States should take due account of the risks and uncertainties involved.

10.2.4 States, in accordance with their capacities, should establish or promote the establishment of systems to monitor the coastal environment as part of the coastal management process using physical, chemical, biological, economic and social parameters.

10.2.5 States should promote multidisciplinary research in support of coastal area management, in particular on its environmental, biological, economic, social, legal and institutional aspects.

### **10.3 Regional cooperation**

10.3.1 States with neighbouring coastal areas should cooperate with one another to facilitate the sustainable use of coastal resources and the conservation of the environment.

10.3.2 In the case of activities that may have an adverse transboundary environmental effect on coastal areas, States should:

- a) provide timely information and, if possible, prior notification to potentially affected States;
- b) consult with those States as early as possible.

10.3.3 States should cooperate at the subregional and regional level in order to improve coastal area management.

### **10.4 Implementation**

10.4.1 States should establish mechanisms for cooperation and coordination among national authorities involved in planning, development, conservation and management of coastal areas.

10.4.2 States should ensure that the authority or authorities representing the fisheries sector in the coastal management process have the appropriate technical capacities and financial resources.

**ARTICLE 11 - POST-HARVEST PRACTICES AND TRADE****11.1 Responsible fish utilization**

11.1.1 States should adopt appropriate measures to ensure the right of consumers to safe, wholesome and unadulterated fish and fishery products.

11.1.2 States should establish and maintain effective national safety and quality assurance systems to protect consumer health and prevent commercial fraud.

11.1.3 States should set minimum standards for safety and quality assurance and make sure that these standards are effectively applied throughout the industry. They should promote the implementation of quality standards agreed within the context of the FAO/WHO Codex Alimentarius Commission and other relevant organizations or arrangements.

11.1.4 States should cooperate to achieve harmonization, or mutual recognition, or both, of national sanitary measures and certification programmes as appropriate and explore possibilities for the establishment of mutually recognized control and certification agencies.

11.1.5 States should give due consideration to the economic and social role of the post-harvest fisheries sector when formulating national policies for the sustainable development and utilization of fishery resources.

11.1.6 States and relevant organizations should sponsor research in fish technology and quality assurance and support projects to improve post-harvest handling of fish, taking into account the economic, social, environmental and nutritional impact of such projects.

11.1.7 States, noting the existence of different production methods, should through cooperation and by facilitating the development and transfer of appropriate technologies, ensure that processing, transporting and storage methods are environmentally sound.

11.1.8 States should encourage those involved in fish processing, distribution and marketing to:

- a) reduce post-harvest losses and waste;

b) improve the use of by-catch to the extent that this is consistent with responsible fisheries management practices; and

c) use the resources, especially water and energy, in particular wood, in an environmentally sound manner.

11.1.9 States should encourage the use of fish for human consumption and promote consumption of fish whenever appropriate.

11.1.10 States should cooperate in order to facilitate the production of value-added products by developing countries.

11.1.11 States should ensure that international and domestic trade in fish and fishery products accords with sound conservation and management practices through improving the identification of the origin of fish and fishery products traded.

11.1.12 States should ensure that environmental effects of post-harvest activities are considered in the development of related laws, regulations and policies without creating any market distortions.

## **11.2 Responsible international trade**

11.2.1 The provisions of this Code should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement.

11.2.2 International trade in fish and fishery products should not compromise the sustainable development of fisheries and responsible utilization of living aquatic resources.

11.2.3 States should ensure that measures affecting international trade in fish and fishery products are transparent, based, when applicable, on scientific evidence, and are in accordance with internationally agreed rules.

11.2.4 Fish trade measures adopted by States to protect human or animal life or health, the interests of consumers or the environment, should not be discriminatory and should be in accordance with internationally agreed trade rules, in particular the principles, rights and obligations established in the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade of the WTO.

11.2.5 States should further liberalize trade in fish and fishery products and eliminate barriers and distortions to trade such as duties, quotas and non-tariff barriers in accordance with the principles, rights and obligations of the WTO Agreement.

11.2.6 States should not directly or indirectly create unnecessary or hidden barriers to trade which limit the consumer's freedom of choice of supplier or that restrict market access.

11.2.7 States should not condition access to markets to access to resources. This principle does not preclude the possibility of fishing agreements between States which include provisions referring to access to resources, trade and access to markets, transfer of technology, scientific research, training and other relevant elements.

11.2.8 States should not link access to markets to the purchase of specific technology or sale of other products.

11.2.9 States should cooperate in complying with relevant international agreements regulating trade in endangered species.

11.2.10 States should develop international agreements for trade in live specimens where there is a risk of environmental damage in importing or exporting States.

11.2.11 States should cooperate to promote adherence to, and effective implementation of relevant international standards for trade in fish and fishery products and living aquatic resource conservation.

11.2.12 States should not undermine conservation measures for living aquatic resources in order to gain trade or investment benefits.

11.2.13 States should cooperate to develop internationally acceptable rules or standards for trade in fish and fishery products in accordance with the principles, rights, and obligations established in the WTO Agreement.

11.2.14 States should cooperate with each other and actively participate in relevant regional and multilateral fora, such as the WTO in order to ensure equitable, nondiscriminatory trade in fish and fishery products as well as wide adherence to multilaterally agreed fishery conservation measures.

11.2.15 States, aid agencies, multilateral development banks and other relevant international organizations should ensure that their policies and practices related to the promotion of international fish trade and export production do not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish is critical to their health and well-being and for whom other comparable sources of food are not readily available or affordable.

### **11.3 Laws and regulations relating to fish trade**

11.3.1 Laws, regulations and administrative procedures applicable to international trade in fish and fishery products should be transparent, as simple as possible, comprehensible and, when appropriate, based on scientific evidence.

11.3.2 States, in accordance with their national laws, should facilitate appropriate consultation with and participation of industry as well as environmental and consumer groups in the development and implementation of laws and regulations related to trade in fish and fishery products.

11.3.3 States should simplify their laws, regulations and administrative procedures applicable to trade in fish and fishery products without jeopardizing their effectiveness.

11.3.4 When a State introduces changes to its legal requirements affecting trade in fish and fishery products with other States, sufficient information and time should be given to allow the States and producers affected to introduce, as appropriate, the changes needed in their processes and procedures. In this connection, consultation with affected States on the time frame for implementation of the changes would be desirable. Due consideration should be given to requests from developing countries for temporary derogations from obligations.

11.3.5 States should periodically review laws and regulations applicable to international trade in fish and fishery products in order to determine whether the conditions which gave rise to their introduction continue to exist.

11.3.6 States should harmonize as far as possible the standards applicable to international trade in fish and fishery products in accordance with relevant internationally recognized provisions.

11.3.7 States should collect, disseminate and exchange timely, accurate and pertinent statistical information on international trade in fish and fishery products through relevant national institutions and international organizations.

11.3.8 States should promptly notify interested States, WTO and other appropriate international organizations on the development of and changes to laws, regulations and administrative procedures applicable to international trade in fish and fishery products.

#### ARTICLE 12 - FISHERIES RESEARCH

12.1 States should recognize that responsible fisheries requires the availability of a sound scientific basis to assist fisheries managers and other interested parties in making decisions. Therefore, States should ensure that appropriate research is conducted into} all aspects of fisheries including biology, ecology, technology, environmental science, economics, social science, aquaculture and nutritional science. States should ensure the availability of research facilities and provide appropriate training, staffing and institution building to conduct the research, taking into account the special needs of developing countries.

12.2 States should establish an appropriate institutional framework to determine the applied research which is required and its proper use.

12.3 States should ensure that data generated by research are analyzed, that the results of such analyses are published, respecting confidentiality where appropriate, and distributed in a timely and readily understood fashion, in order that the best scientific evidence is made available as a contribution to fisheries conservation, management and development. In the absence of adequate scientific information, appropriate research should be initiated as soon as possible.

12.4 States should collect reliable and accurate data which are required to assess the status of fisheries and ecosystems, including data on bycatch, discards and waste. Where appropriate, this data should be provided, at an appropriate time and level of aggregation, to relevant States and subregional, regional and global fisheries organizations.

12.5 States should be able to monitor and assess the state of the stocks under their jurisdiction, including the impacts of ecosystem changes resulting from fishing pressure, pollution or habitat alteration. They should also establish the research capacity necessary to assess the effects of climate or environment change on fish stocks and aquatic ecosystems.

12.6 States should support and strengthen national research capabilities to meet acknowledged scientific standards.

12.7 States, as appropriate in cooperation with relevant international organizations, should encourage research to ensure optimum utilization of fishery resources and stimulate the research required to support national policies related to fish as food

12.8 States should conduct research into, and monitor, human food supplies from aquatic sources and the environment from which they are taken and ensure that there is no adverse health impact on consumers. The results of such research should be made publicly available.

12.9 States should ensure that the economic, social, marketing and institutional aspects of fisheries are adequately researched and that comparable data are generated for ongoing monitoring, analysis and policy formulation.

12.10 States should carry out studies on the selectivity of fishing gear, the environmental impact of fishing gear on target species and on the behaviour of target and non-target species in relation to such fishing gear as an aid for management decisions and with a view to minimizing non-utilized catches as well as safeguarding the biodiversity of ecosystems and the aquatic habitat.

12.11 States should ensure that before the commercial introduction of new types of gear, a scientific evaluation of their impact on the fisheries and ecosystems where they will be used should be undertaken. The effects of such gear introductions should be monitored.

12.12 States should investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development.

12.13 States should promote the use of research results as a basis for the setting of management objectives, reference points and performance criteria, as well as for ensuring adequate linkage, between applied research and fisheries management,

12.14 States conducting scientific research activities in waters under the jurisdiction of another State should ensure that their vessels comply with the laws and regulations of that State and international law.

12.15 States should promote the adoption of uniform guidelines governing fisheries research conducted on the high seas.



12.16 States should, where appropriate, support the establishment of mechanisms, including, *inter alia*, the adoption of uniform guidelines, to facilitate research at the subregional or regional level and should encourage the sharing of the results of such research with other regions.

12.17 States, either directly or with the support of relevant international organizations, should develop collaborative technical and research programmes to improve understanding of the biology, environment and status of transboundary aquatic stocks.

12.18 States and relevant international organizations should promote and enhance the research capacities of developing countries, *inter alia*, in the areas of data collection and analysis, information, science and technology, human resource development and provision of research facilities, in order for them to participate effectively in the conservation, management and sustainable use of living aquatic resources.

12.19 Competent national organizations should, where appropriate, render technical and financial support to States upon request and when engaged in research investigations aimed at evaluating stocks which have been previously unfished or very lightly fished.

12.20 Relevant technical and financial international organizations should, upon request, support States in their research efforts, devoting special attention to developing countries, in particular the least developed among them and small island developing countries.

## Annex 1

**BACKGROUND TO THE ORIGIN AND ELABORATION OF THE CODE**

1. This annex describes the process of elaboration and negotiation of the Code, which led to its submission for adoption to the Twenty-eighth Session of the FAO Conference. It has been felt useful to annex this section as a reference to the origin and the development of the Code and thus reflect the interest generated and the spirit of compromise of all the parties involved in its elaboration. It is hoped that this will contribute to the promotion of the commitment necessary for its implementation.
2. At various international fora, concern had long been expressed regarding the clear signs of over-exploitation of important fish stocks, damage to ecosystems, economic losses, and issues affecting fish trade - all of which threatened the long-term sustainability of fisheries and, in turn, harmed the contribution of fisheries to food supply. In discussing the current state and prospects of world fisheries, the Nineteenth Session of the FAO Committee on Fisheries (COFI), held in March 1981, recommended that FAO should develop the concept of responsible fisheries and elaborate a Code of Conduct to this end.
3. Subsequently, the Government of Mexico, in collaboration with FAO, organized an International Conference on Responsible Fishing in Cancún, in May 1992. The Declaration of Cancún endorsed at that Conference further developed the concept of responsible fisheries, stating that "this concept encompasses the sustainable utilization of fisheries resources to harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality; the incorporation of added value to such products through transformation processes meeting the required sanitary standards; the conduct of commercial practices so as to provide consumers with quality products." The Declaration also recommended that FAO should develop a Code of Conduct for Responsible Fisheries.
4. The Cancún Declaration was brought to the attention of the UNCED Rio Summit in June 1992, which supported the preparation of a Code of Conduct for Responsible Fisheries. The FAO Technical Consultation on High Seas Fishing, held in September 1992, further recommended the elaboration of a Code to address the issues regarding high seas fisheries.
5. The one hundred and Second Session of the FAO Council, held in November 1992, discussed the elaboration of the Code, recommending that priority be given to high seas issues and requested that proposals for the Code be presented to the 1993 session of the Committee on Fisheries.

6. The Twentieth Session of COFI, held in March 1993, examined general principles for such a Code, including the elaboration of guidelines and endorsed a timeframe for the further elaboration of the Code. It also requested FAO to prepare, on a "fast track" basis, as part of the Code, proposals to prevent reflagging of fishing vessels which affect conservation and management measures on the high seas.

7. The further development of the Code of Conduct for Responsible Fisheries was accordingly carried out in consultation and collaboration with relevant United Nations Agencies and other international organizations including non-governmental organizations.

8. In pursuance of the instructions of the FAO Governing Bodies, the draft Code was formulated in such a way as to be consistent with the 1982 United Nations Convention on the Law of the Sea, taking into account the 1992 Declaration of Cancun, the 1992 Rio Declaration and the provisions of Agenda 21 of UNCED, the conclusions and recommendations of the 1992 FAO Technical Consultation on High Seas Fishing, the Strategy endorsed by the 1984 FAO World Conference on Fisheries Management and Development, and other relevant instruments including the outcome of the then ongoing United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks which, in August 1995, adopted an Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Concerning Straddling Fish Stocks and Highly Migratory Fish Stocks.

9. The FAO Conference, at its Twenty-seventh Session in November 1993, adopted the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and recommended that the General Principles of the Code of Conduct for Responsible Fisheries be prepared on a "fast track" in order to orientate formulation of thematic articles. Accordingly, a draft text of the General Principles was reviewed by an informal Working Group of Government nominated experts, which met in Rome in February 1994. A revised draft was widely circulated to all FAO Members and Associate Members as well as intergovernmental and non-governmental organizations. Comments received on the second version of the General Principles were incorporated in the draft Code together with proposals for an alternative text. This document was also the subject of informal consultation with non-governmental organizations on the occasion of the Fourth Session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, held in August 1994 in New York.

10. In order to facilitate consideration of the full text of the draft Code, the Director-General proposed to the Council at its Hundred and Sixth Session in

gune 1994, that a Technical Consultation on the Code of Conduct for Responsible Fishing be organized, open to all FAO Members, interested non-members, intergovernmental and non-governmental organizations, in order to provide an opportunity for the widest involvement of all concerned parties at an early stage of its elaboration.

11. This Technical Consultation took place in Rome from 26 September to 5 October 1994 and a draft for the entire Code and a first draft of technical guidelines to support most of the Thematic Articles of the Code were presented. Following a thorough review of all the Articles of the complete draft Code of Conduct, an Alternative Secretariat Draft was then prepared on the basis of comments made during the discussions in plenary and specific drafting changes submitted in writing during the Consultation.

12. The Consultation was able to review also in detail an alternative draft for three of the six Thematic Articles of the Code, i.e., Article 9 "Integration of Fisheries into Coastal Area Management", Article 6 "Fisheries Management", Article 7 "Fishing Operations", except for those principles which were likely to be affected by the outcome of the ongoing UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. A short Administrative Report was prepared and presented to the FAO Council and to COFI.

13. The Technical Consultation proposed to the Council at its Hundred and Seventh Session, 15-24 November 1994, that the final wording of those principles dealing mainly with high seas issues be left in abeyance pending the outcome of the UN Conference. The Council generally endorsed the proposed procedure, noting that following discussions at the next session of COFI, a final draft of the Code would be submitted to the FAO Council in gune 1995 which would then decide upon the necessity for a Technical Committee to meet in parallel to that Session of the Council in order to elaborate further the detailed provisions of the Code if required.

14. Based upon the substantial comments and detailed suggestions received at the Technical Consultation, the Secretariat elaborated a revised draft of the Code of Conduct for Responsible Fisheries, which was submitted to the Twenty-first Session of the Committee on Fisheries, held from 10 to 15 March 1995.

15. The Committee on Fisheries was also informed that the UN Conference was expected to conclude its work in August 1995. It was proposed that principles left in abeyance in the draft text of the Code could then be reconciled with the language agreed upon at the UN Conference in accordance with a mechanism to be decided upon by the Committee and the Council, before

submission of the complete Code for its adoption at the Twenty-eighth Session of the FAO Conference in October 1995.

16. The Committee was informed of the various steps the Secretariat had undertaken in preparing the draft Code of Conduct. The Committee established an open-ended Working Group in order to review the draft text of the Code. The Working Group, which met from 10 to 14 March 1995, undertook a detailed revision of the draft Code in continuation of the work carried out by the Technical Consultation. It completed and approved the text of Articles 8 to 11. In view of the time constraints, the Working Group provided directives to the Secretariat to redraft Articles 1 to 5. It was also recommended that the elements of research and cooperation as well as aquaculture be included in Article 5, General Principles, to reflect issues developed in the Thematic Articles of the Code.

17. The Committee supported the proposal endorsed by the Hundred and Seventh Session of the Council to finalize the Code. The final wording of those principles dealing mainly with issues concerning straddling fish stocks and highly migratory fish stocks, which formed only a small part of the Code, should be re-examined in the light of the outcome of the UN Conference. The Group also recommended that once agreement was reached on the substance, it would be necessary to harmonize legal, technical and idiomatic aspects of the Code, in order to facilitate its final approval.

18. The Report of the open-ended Working Group was presented to a Ministerial Meeting on Fisheries, held on 14 and 15 March 1995, in conjunction with the COFI Session. The Rome Consensus on World Fisheries emanating from this meeting urged that "Governments and international organizations take prompt action to complete the International Code of Conduct for Responsible Fisheries with a view to submitting the final text to the FAO Conference in October 1995"

19. The Hundred and Eighth Session of the Council was presented with a revised version of the Code of Conduct. The Council established an open-ended Technical Committee, which held its First Session from 5 to 9 June 1995, with a broad regional representation of members and observers. A number of intergovernmental and non-governmental organizations also participated.

20. The Council was informed by the Technical Committee that it had undertaken a thorough review of Articles 1 to 5 including the Introduction. It had also examined, amended and approved Articles 8 to 11. The Council was also informed that the Committee had started the revision of Article 6.

21. The Council approved the work carried out by the Technical Committee and endorsed its recommendation for a Second Session to be held from 25 to 29 September 1995 to complete the revision of the Code once the Secretariat had harmonized the text linguistically and juridically, taking into account the outcome of the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

22. A revised version of the Code as approved by the Open-ended Technical Committee at its First Session (5-9 June 1995) and endorsed by the One Hundred and Eighth Session of the Council was issued, both as a Conference document (C 95/20) and as a working paper for the Second Session of the Technical Committee. Elements pending agreement were clearly identified.

23. In order to facilitate the finalization of the entire Code, the Secretariat prepared the document "Secretariat Proposals for Article 6, Fisheries Management, and Article 7, Fishing Operations, of the Code of Conduct for Responsible Fisheries", taking into account the Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted by the UN Conference in August 1995. The Secretariat also completed proposals for the harmonization of the text on legal and linguistic aspects and made this available to the Committee in three languages for the session (English, French and Spanish).

24. A Second Session of the Open-ended Technical Committee of the Council met from 25 to 29 September 1995, with a wide representation of regions and interested organizations. The Committee, working in a full spirit of collaboration, successfully concluded its mandate, finalizing and endorsing all Articles and the Code as a whole. The Technical Committee agreed that the negotiations of the text of the Code were finalized. An Open-ended Informal Group on Language Harmonization held an additional session and, together with the Secretariat, completed the harmonization on the basis of the text as adopted: at the closing session. The Technical Committee instructed the Secretariat to already submit the finalized version as a revised Conference document to the Hundred and Ninth Session of the Council and to the Twenty-eighth Session of the Conference for its adoption. The Council endorsed the Code of Conduct as finalized by the Technical Committee. The Secretariat was requested to prepare the required draft resolution for the Conference, including also a call on countries to ratify, as a matter of urgency, the Compliance Agreement adopted at the last session of the Conference. The Twenty-eighth Session of the Conference adopted on 31 October 1995, by consensus, the Code of Conduct for Responsible Fisheries and the respective Resolution shown in Annex 2.

## Annex 2

### RESOLUTION

#### THE CONFERENCE

Recognizing the vital role of fisheries in world food security, and economic and social development, as well as the need to ensure the sustainability of the living aquatic resources and their environment for present and future generations,

Recalling that the Committee on Fisheries on 19 March 1991 recommended the development of the concept of responsible fishing and the possible formulation of an instrument on the matter.

Considering that the Declaration of Cancún, which emanated from the International Conference on Responsible Fisheries of May 1992, organized by the Government of Mexico in collaboration with FAO, had called for the preparation of a Code of Conduct on Responsible Fisheries.

Bearing in mind that with the entry into force of the United Nations Convention on the Law of the Sea, 1982, and the adoption of the Agreement for the implementation of the provisions of the United Nations 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, as was anticipated in the 1992 Rio Declaration and the provisions of Agenda 21 of UNCED, there is an increased need for subregional and regional cooperation, and that significant responsibilities are placed upon FAO in accordance with its mandate,

Recalling further that the Conference in 1993 adopted the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the high Seas, and that this Agreement would constitute an integral part of the Code of Conduct,

Noting with satisfaction that FAO, in accordance with the decisions of its Governing Bodies, had organized a series of technical meetings to formulate the Code of Conduct and that these meetings have resulted in agreement being reached on the text of the Code of Conduct for Responsible Fisheries,

Acknowledging that the Rome Consensus on World Fisheries, which emanated from the Ministerial Meeting on Fisheries of 14-15 March 1995, urged governments and international organizations to respond effectively to the current fisheries situation, *inter alia*, by completing the Code of Conduct for Responsible

Fisheries and to consider adopting the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas:

1. Decides to adopt the Code of Conduct for Responsible Fisheries;
2. Calls on States, International Organizations, whether governmental or Non-governmental, and all those involved in fisheries to collaborate in the fulfillment and implementation of the objectives and principles contained in this Code;
3. Urges that special requirements of developing countries be taken into account in implementing the provisions of this Code;
4. Requests FAO to make provision in the Programme of Work and Budget for providing advice to developing countries in implementing this Code and for the elaboration of an Interregional Assistance Programme for external assistance aimed at supporting implementation of the Code;
5. Further requests FAO, in collaboration with members and interested relevant organizations, to elaborate, as appropriate, technical guidelines in support of the implementation of the Code;
6. Calls upon FAO to monitor and report on the implementation of the Code and its effects on fisheries, including action taken under other instruments and resolutions by UN organizations and, in particular, the resolutions adopted by the General Assembly to give effect to the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks leading to the Agreement for the implementation of the provisions of the United Nations 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;
7. Urges FAO to strengthen Regional Fisheries Bodies in order to deal more effectively with fisheries conservation and management issues in support of subregional, regional and global cooperation and coordination in fisheries.



This publication includes the text of the Code of Conduct for Responsible Fisheries, Background to the Origin and Elaboration of the Code, and Resolution 4/25 as adopted by the Twenty-eighth Session of the FAO Conference on 31 October 1985.

