



Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (ATLAFCO/COMHAFAT)



Legal Instruments Governing Measures to Combat IUU Fishing



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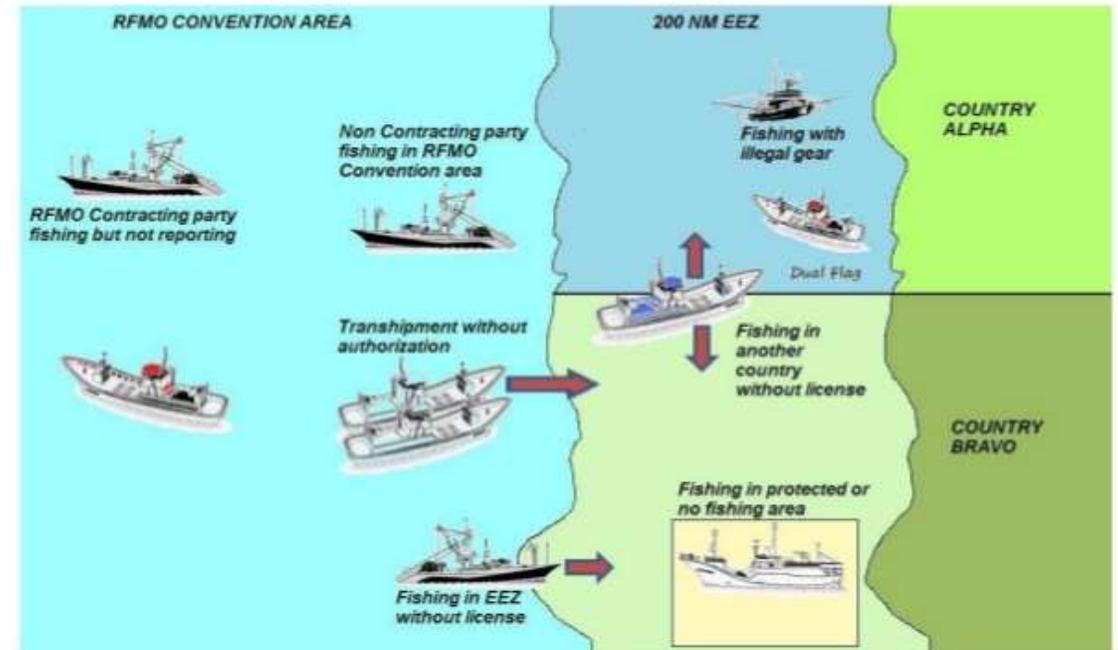


The definition of IUU fishing



- ❑ Illegal, unreported and unregulated (IUU) fishing is a broad term originally defined in 2001, within the context of the IPOA-IUU, and includes:
 - ❑ Fishing and fishing-related activities conducted in contravention of national, regional and international laws. **(illegal)**
 - ❑ Non-reporting, misreporting or under-reporting of information on fishing operations and their catches. **(unreported)**
 - ❑ Fishing by "Stateless" vessels. **(unregulated)**
 - ❑ Fishing in convention areas of RFMOs by non-party vessels. **(unregulated)**
 - ❑ Fishing activities which are not regulated by States and cannot be easily monitored and accounted for. **(unregulated)**
 - ❑ Fishing in areas or for fish stocks for which there are no conservation or management measures. **(unregulated)**

Different forms of IUU in marine fisheries





Tools to combat IUU



- ❑ *Illegal, unreported and unregulated (IUU) fishing is a serious threat to fisheries and fisheries-dependent communities, marine ecosystems and societies at large*
- ❑ *Public and political awareness of the issue has increased and a consensus has emerged on the need for countries to join in efforts to combat IUU fishing*

- ❑ Tools to combat IUU
 - ❑ International instruments
 - ❑ Flag State controls
 - ❑ Coastal state responsibilities
 - ❑ Port State Measures & market measures
 - ❑ Vessel registers (national)
 - ❑ RFMO Vessel white & black lists
 - ❑ Catch documentation schemes
 - ❑ Regulation of trans-shipment
 - ❑ Monitoring control and surveillance systems (MCS)
 - data storage and retrieval systems
 - Vessel monitoring systems (VMS)
 - observer programmes boarding and inspection schemes
 - FAO standard markings for fishing vessels
 - industry education about IUU fishing

What tools do we have to combat IUU fishing?





Combating IUU fishing



Flag States, Port States, Coastal States, Market States
School of Action Plan for Combating IUU Fishing

Strong political will and concerted action, including through RFMOs, by:

- ✓ Flag States
- ✓ Port States
- ✓ Coastal States
- ✓ Market States

Capacity and resources to

- ✓ Detect IUU fishing
- ✓ Enforce regulations
- ✓ Take action and prosecute



Legal measures to combat IUU fishing



Regional Fisheries Management Agreement
School of Advanced Marine Training Institute

- ❑ The issue now features prominently on the international political agenda, particularly following the adoption of the Sustainable Development Goal (SDG) targets 14.4 and 14.6, which set the objective of ending IUU fishing and subsidies contributing to IUU fishing by 2020
- ❑ Legal measures, such as introducing monitoring and surveillance systems or denying services to vessels engaged in IUU fishing, are often implemented at national and international levels to combat such practices

SUSTAINABLE DEVELOPMENT GOALS



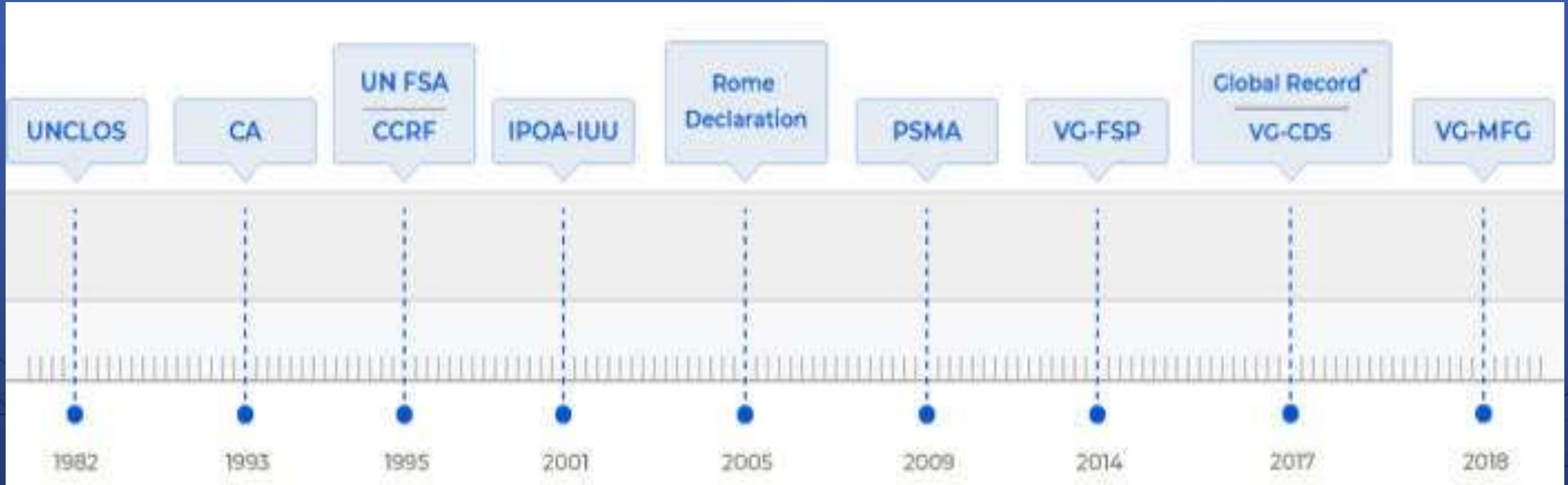
SDG indicators
14.4.1, 14.6.1,
14.7.1, 14.b.1

Measuring
FISH STOCKS,
SUSTAINABILITY
OF FISHERIES,
ILLEGAL FISHING
AND ACCESS RIGHTS
FOR SMALL-SCALE
FISHERS





Chronology of international instruments relevant to combating IUU fishing





International fisheries instruments and... tools

UNCLOS (1982)*



FAO Compliance Agreement (1993)*



FAO Code of Conduct for Responsible Fisheries (1995)



UN Fish Stocks Agreement (1995)*



FAO Port State Measures Agreement (2009)*



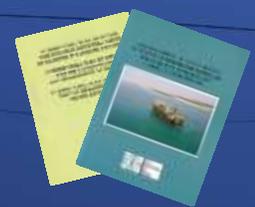
FAO Global Record of Fishing Vessels, Refrigerated Transport Vessels, And Supply Vessels



International Plans of Action Sharks, Seabirds, Capacity, IUU (1999-2001)

International Guidelines FSP, SSF, BC/DC, DSF, CDS (2009-2014)

Strategies on information STF, STA (2003-2008)



* Binding

○ Contain relevant provisions to combat IUU fishing

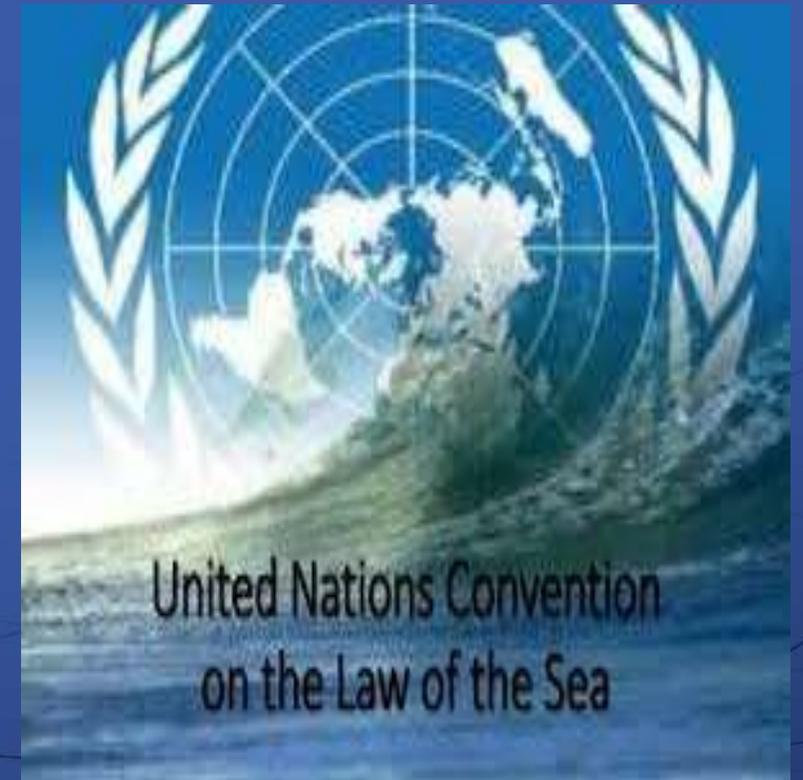


The United Nations Convention on the Law of the Sea (UNCLOS)



Programa de Pós-Graduação em Direito da Universidade Federal do Rio de Janeiro
Instituto de Direito e Ciências Jurídicas

- ❑ The **United Nations Convention on the Law of the Sea** (UNCLOS) is a landmark instrument described as a "*Constitution for the Oceans*"
- ❑ It provides the international legal basis for the protection and use of living and non-living resources of the world's oceans
- ❑ The Convention is the point of departure with respect to the conservation of living marine resources, for binding and voluntary international fisheries instruments such as those adopted by the **Food and Agriculture Organization of the United Nations (FAO)**, as well as non-binding but politically significant fisheries resolutions, such as those adopted by the **UNGA**.





FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas



Regional Fisheries Management Association
Network of African Fisheries Training Institutions

- ❑ *(The Compliance Agreement)*, was approved by the FAO Conference at its 27th session in November 1993 and entered into force on 24 April 2003
- ❑ It notes the special responsibility of flag States to ensure
 - ❑ that none of their vessels are fishing on the high seas unless authorized,
 - ❑ that they can effectively exercise their responsibilities to ensure their vessels comply with international measures
- ❑ *The Compliance Agreement also seeks to prevent the “re-flagging” of vessels fishing on the high seas under the flags of States that are unable or unwilling to enforce international fisheries conservation and management measures*
- ❑ The maintenance of records of fishing vessels, international cooperation, and enforcement are covered extensively by the provisions of the Agreement.

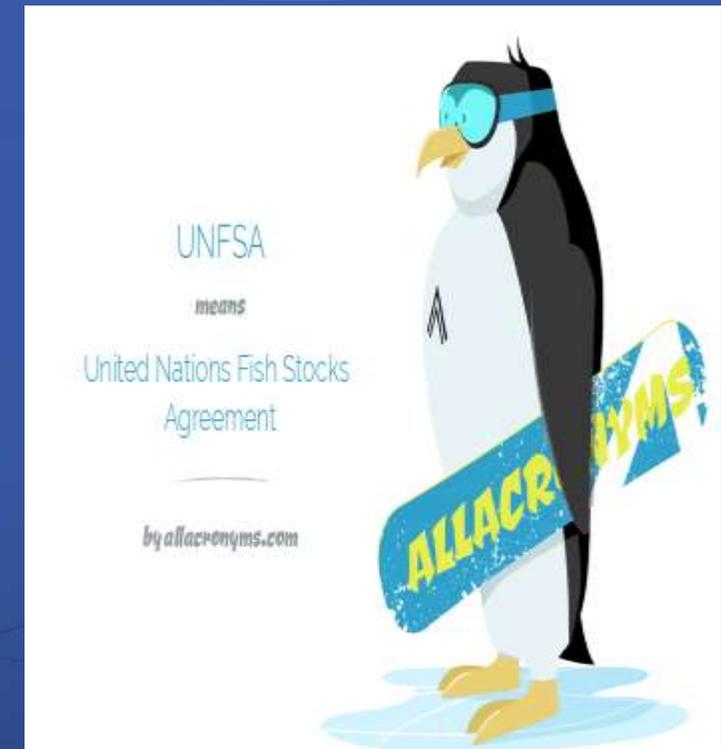




UN Fish Stocks Agreement



- ❑ The Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement) entered into force on 11 December 2001
- ❑ *The UN Fish Stocks Agreement* aims to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks within the framework of UNCLOS
- ❑ The Agreement also spells out the duties of flag States including those related to
 - ❑ registration and records of vessels, authorizations,
 - ❑ MCS
 - ❑ compliance and enforcement
- ❑ Cooperation in international, regional and sub-regional enforcement is also addressed, along with **boarding and inspection procedures and port State measures**





Code of Conduct for Responsible Fisheries



Regional Fisheries Management Organisation
Network of Autonomous Fisheries Training Institutions

- ❑ The 1995 *FAO Code of Conduct for Responsible Fisheries* was adopted in Resolution 4/95 by the FAO Conference on 31 October 1995
- ❑ A ground-breaking, unique and voluntary instrument, the 1995 *FAO Code of Conduct* is **probably the most cited, high-profile and widely diffused global fisheries instrument** in the world after the 1982 UN Convention.
- ❑ With its comprehensive, all-embracing character, it is intended that the 1995 *FAO Code of Conduct* **be implemented holistically by governments and stakeholders involved in fisheries and aquaculture**
- ❑ The purpose of 1995 *FAO Code of Conduct* is to set international standards of behavior 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.
- ❑ These standards may be implemented, as appropriate, at the **national, subregional and regional levels** and in promoting more responsible behaviour in the fisheries sector.





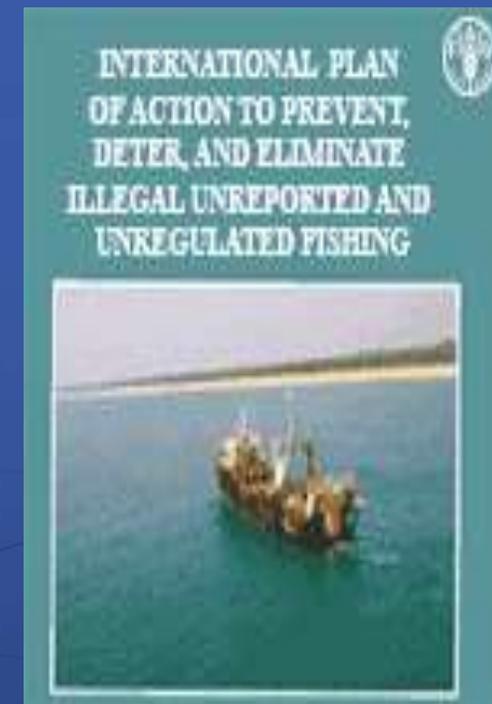
International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

The IPOA-IUU was adopted by COFI on 2 March 2001.



Regional Fisheries Management Organisation
Western Indian Ocean

- ❑ The IPOA-IUU was elaborated within the framework of the [Code of Conduct for Responsible Fisheries](#)
- ❑ The IPOA-IUU was conceived as a **comprehensive toolbox**, in that it is a full range of tools that are available for use in a number of different situations to combat IUU fishing
- ❑ It covers **flag, port, coastal and market State responsibilities**, envisages broad participation and coordination among States, as well as representatives from industry, fishing communities and non-governmental organizations (NGOs) and the use of a **comprehensive and integrated approach**, so as to address all **impacts of IUU fishing**
- ❑ It calls upon States to develop and adopt their own NPOAs, addressing **flag State responsibilities, coastal, port and market State measures** and the role of RFMOs in the implementation of the NPOA.
- ❑ A purposely designed toolbox, concluded within the framework of the FAO Code of Conduct for Responsible Fisheries, to combat IUU fishing, for use by all States, in general, flag States, coastal States and port States.





Agreement on Port State Measures (PSMA)



- ❑ The *Agreement on Port State Measures* (PSMA) is the first binding international agreement to specifically target **IUU fishing**
- ❑ Its main objective is to prevent, deter and eliminate IUU fishing by **preventing vessels engaged in IUU fishing from using ports and landing their catches.**
- ❑ The agreement reduces the incentive of such vessels to continue to operate while it also **blocks fishery products derived from IUU** fishing from reaching national and international markets
- ❑ The **effective implementation** of the Agreement ultimately contributes to the long-term conservation and sustainable use of living marine resources and marine ecosystems
- ❑ The provisions of the PSMA apply to fishing vessels seeking entry into a designated port of a State which is different to their flag State





Voluntary Guidelines for Flag State Performance

The VGFSP were adopted at the 31st session of COFI in 2014



- ❑ The *Voluntary Guidelines for Flag State Performance* (VGFSP) provide guidance to strengthen and monitor compliance by flag States with their international duties and obligations regarding the flagging and control of fishing vessels
- ❑ Fisheries management, registration and records of vessels, authorizations, MCS and cooperation between flag States and coastal States are among the central components of the Guidelines.
- ❑ The VGFSP spell out a range of actions that countries can take to ensure that vessels registered under their flags **do not conduct IUU fishing**, including monitoring, control and surveillance (MCS) activities, such as vessel monitoring systems (VMS) and observers
- ❑ They promote information exchange and cooperation among countries so that flag states are in a position to refuse to register vessels that are “flag-hopping” by attempting to register with another flag state or to refuse vessels that have been reported for IUU fishing
- ❑ **Aim to prevent, deter and eliminate IUU fishing through the effective implementation of flag State responsibilities. This instrument is a valuable tool for strengthening compliance by flag States with their international duties and obligations regarding the flagging and control of fishing vessels**





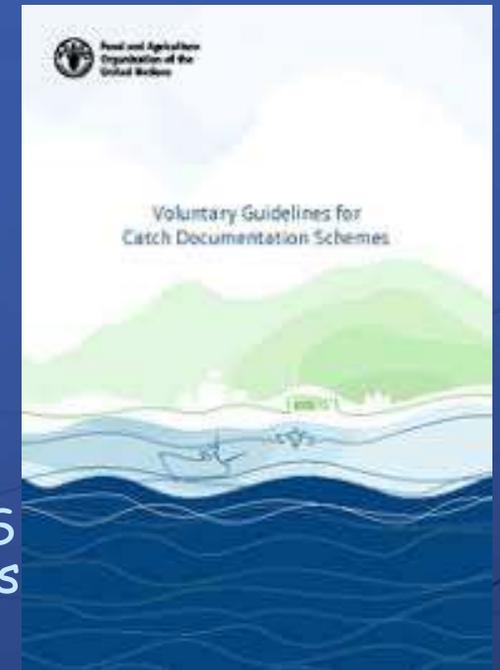
Voluntary Guidelines for Catch Documentation Schemes

The VGCDS were adopted by the FAO Conference in July 2017



Engagement of Small Scale Fisheries in the VGCDS
School of Advanced Marine Training Institute

- ❑ The FAO Voluntary Guidelines for Catch Documentation Schemes (VGCDS) is the first international policy document with comprehensive elaboration about CDS.
- ❑ The objective of the VGCDS is to provide assistance to States, regional fisheries management organizations, regional economic integration organizations and other intergovernmental organizations when developing and implementing new CDS, or harmonizing or reviewing existing CDS.
- ❑ The CDS is a system to determine throughout the supply chain whether fish originate from catches consistent with **applicable national, regional and international conservation and management measures**, established in accordance with **relevant international obligations**.
- ❑ As a trade-related measure to prevent, deter and eliminate IUU) fishing, CDS could function most effectively in synergy with other international instruments including the Agreement on Port State Measures (PSMA) and the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels.





UN Agencies in tackling IUU



- ❑ The U.N. Food and Agriculture Organization's [Port State Measures Agreement \(PSMA\)](#), in force since 2016, strengthens port controls to prevent illegally caught fish from entering the global market
- ❑ The International Labour Organization's [Work in Fishing Convention No. 188 \(C188\)](#), in force since 2017, sets basic standards for decent work conditions in the commercial fishing industry
- ❑ And the International Maritime Organization's [Cape Town Agreement \(CTA\)](#), which will enter into force once 22 States have ratified with a total of 3,600 fishing vessels 24 meters or longer, outlines safety standards for commercial fishing vessels and details regulations that countries party to the agreement must adopt to protect fishing crews and their observers
- ❑ All three U.N. agencies have recognized the benefits of the **aforementioned instruments in tackling illegal, unreported, and unregulated fishing and associated social issues**





The EU Regulation to prevent, deter and eliminate IUU entered into force on 1 January 2010



- ❑ **Regulation 1005/2008**, last amended by Reg. 86/2010, covers the IUU framework
- ❑ Only **marine fisheries products validated as legal** by the competent flag state or exporting state can be imported to or exported from the EU.
- ❑ An **IUU vessel list** is issued regularly, based on IUU vessels identified by RFMOs
- ❑ The IUU Regulation can **take steps against states** that turn a blind eye to illegal fishing activities (**colour-coded warning schem**)
 - ❑ first it issues a warning
 - ❑ then it can identify and black list them for not fighting IUU fishing
- ❑ EU operators who fish illegally anywhere in the world, under any flag, **face substantial penalties** proportionate to the economic value of their catch, which deprive them of any profit

Tackling illegal, unreported and unregulated (IUU) fishing

Fishing is illegal if:

- no authorization
- illegal capture and management measures by RFMOs
- illegal national laws or international obligations

Fishing is unreported if:

- not reported, or the reporting contravenes international, RFMO or national laws and regulations

Fishing is unregulated if:

- the fishing vessel has no nationality
- fishing activities jeopardize fish stocks

IUU fishing practices:

- €320 billion every year worldwide
- 19% of the worldwide reported value of catches
- serious threat to sustainable fishing
- damages the marine environment
- affects socio-economic conditions

The EU's fisheries control system:

- The "IUU Regulation" establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (EU Regulation (EC) No 1005/2008)
- The Regulation concerning authorisation for fishing activities - Council Regulation (EC) No 1006/2008
- The Regulation establishing a Community Control System for ensuring compliance with the rules of the Common Fisheries Policy - Council Regulation (EC) No 1224/2009

Cooperation between the EU and non-EU countries:

- The EU works closely with non-EU countries to promote compliance with international rules.
- Why?** IUU fishing affects legitimate operators who are hit by unfair competition and threaten's food security and socio-economic conditions.
- Key tool:** EU catch certification system for all fisheries products - imports, exports and re-exports to and from the EU.

If a third country has problems fulfilling international rules:

- Pre-identification**
 - The European Commission opens a formal dialogue during minimum 90 days.
 - If the quality improves its situation, the catch certificate can be prolonged and additional fish products allowed to be received.
- Identification**
 - A list of all products for which the catch certificate after the decision is valid.
- Delisting**
 - Continued cooperation and no return for import of legally caught fishery products.
- Listing by the EU**
 - Identified products caught by fishing vessels flying the flag of a third country are no longer allowed to be imported into the EU under the Common Fisheries Policy.
 - The decision triggers further measures, such as a formal ban for IUU vessels in these countries' waters.

Thanks to this cooperation, more than 30 third countries have improved their systems to fight IUU



The EU Regulation to prevent, deter and eliminate IUU



Programa de Apoio ao Desenvolvimento das Pescas Marítimas
Sub-plano de Apoio ao Desenvolvimento das Pescas Marítimas

- ❑ **Principle:** To stop imports of illegally caught fish
- ❑ **Who:** All EU and third countries fleets engaged in fishing,
- ❑ **A Catch certificate** is provided with all imports from 3rd countries.





Commitment to effective oversight of fishing vessels stemming from key international agreements



Engagement des États membres de l'Organisation mondiale de la Santé
School of African Public Health Education

- ❑ **1982 UNCLOS (Article 94.1):** “Every State shall **effectively exercise its jurisdiction and control** in administrative, technical and social matters over ships flying its flag”
- ❑ **1995 FAO Compliance Agreement (Article 3.1a):** “Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag **do not engage in any activity that undermines the effectiveness of international conservation and management measures.**”
- ❑ **1995 UNFSA (Article 18.1):** “A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels **do not engage in any activity which undermines the effectiveness of such measures.**”
- ❑ **1995 FAO Code of Conduct for Responsible Fisheries (Article 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.**”

Commitment to effective oversight of fishing vessels stemming from key international agreements

- ❑ **1995 FAO Code of Conduct for Responsible Fisheries (Article 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.**”
- ❑ **2001 IPOA-IUU (Article 24):** “States should undertake **comprehensive and effective monitoring, control and surveillance (MCS)** of fishing from its commencement, through the point of landing, to final destination [...]”.
- ❑ **2009 PSMA (Article 24.1):** “Parties shall, within the framework of FAO and its relevant bodies, ensure the regular and **systematic monitoring and review of the implementation** of this Agreement as well as the assessment of progress made towards achieving its objective.”
- ❑ **2014 FAO Voluntary Guidelines for Flag State Performance (Article 31):** “The flag State implements a **control regime over vessels flying its flag** [...]”.



THANK YOU



Programme de Formation des Officiers de la Marine Royale
School of African Maritime Training Institute

The End