Chapter Four

All State Measures

4.1 General Framework for All State Responsibilities

IUU fishing is a global problem and therefore requires action by the international community, including coastal, port, flag and market States. In recognition of the global character and impact of IUU fishing, the IPOA-IUU identifies a range of measures that need to be implemented by “All States” to combat IUU fishing. These measures include the implementation of international instruments; enactment of national legislation; development of national plan of action; control of nationals; jurisdiction over vessels without nationality; imposition of sanctions of sufficient severity; actions against non cooperating States, avoidance of economic incentives to IUU fishing activities; monitoring, control and surveillance (MCS); cooperation between States; publicity; and provision of technical capacity and resources. In the implementation of the IPOA-IUU, it is important to bear in mind that all the actions listed under “All State Responsibilities” cut across and overlap with coastal State, port State, flag State, market State, and RFMO measures to combat IUU fishing. This Chapter focuses on aspects of “All State Measures” that are not discussed in other Chapters which are critical to combating IUU fishing. The measures analysed by way of examples include the ratification and implementation of international instruments, adoption of national plans of actions and legislation to combat IUU fishing, control of nationals, and elimination of economic incentives.

4.2 Ratification and Implementation of International Instruments

The IPOA-IUU provides for the responsibility of States to give effect to relevant norms of international law, as reflected in the LOSC, to combat IUU fishing.1 It also encourages all States to ratify, accede to, accept, and implement international fisheries instruments such as the FAO Compliance Agreement, UN Fish Stocks Agreement, and the FAO Code of Conduct and its associated International Plans

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1 FAO, International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing, adopted on 23 June 2001 at the 120th Session of the FAO Council. Hereinafter referred to as IPOA-IUU.
of Action. However, as seen from the discussion in Chapter 3, the international instruments relevant to combating IUU fishing are wide ranging and include fisheries specific instruments and non-fisheries specific instruments. Therefore in order to adequately address IUU fishing, States would need to take into account all of the fisheries, trade environment, and maritime safety related instruments. The important role that international instruments play in the global fight against IUU fishing has been emphasised by the FAO by stating that “IUU fishing contravenes existing international standards for fishery conservation and management. In other words, if all States were fully implementing those international standards, there would be much less IUU fishing.”

Some of the relevant international fisheries instruments fall squarely within the domain and competence of fisheries agencies, while others fall outside the area of responsibility of national fisheries authorities, thus requiring a wider inter-agency cooperation at the domestic level. At the end of the day, the effectiveness of international instruments to combat IUU fishing depends largely on the extent of their implementation at the national level. This requires the development of appropriate policies and national legislation to give effect to obligations under relevant international instruments.

Although many States are quick to ratify international instruments, ratification is only the start of addressing IUU fishing. The real challenge facing many States is not so much the ratification of relevant instruments, but the domestic implementation of the provisions of these instruments through legislation and management measures. Many States, particularly developing States, are handicapped in terms of capacity to translate international obligations into national implementation measures such as legislation. This challenge has been recognised by many of the international instruments which have made provisions for technical and financial assistance to developing States in implementing their obligations. A number of international institutions and developed States have programmes to provide such assistance to developing States to implement sustainable fisheries management practices.

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2 *IPOA-IUU*, paras. 11–14.
4 See for example, United Nations General Assembly (UNGA), Sixty-third session, Item 73(a) of the provisional agenda, Oceans and the Law of the Sea, Available assistance to and measures that may be taken by developing States, in particular the least developed States and Small Island Developing States (SIDS), as well as coastal African States, to realise the benefits of sustainable and effective development of marine resources and uses of the oceans within the limits of national jurisdiction, Study Prepared by the Secretariat, *A/63/342*, 3 September 2008.