

BACKGROUND PAPER ON POSSIBLE COMPONENTS FOR REGIONAL VESSEL AND GEAR MARKING SYSTEMS

Prepared by the Secretariat

I. PREPARATION OF THIS DOCUMENT

1. The Preparatory Conference for the establishment of the Commission for the Conservation and Management of the Highly Migratory Fish Stocks for the Western and Central Pacific (PrepCon) at its fourth session in Nadi (PrepCon IV), Fiji, requested the interim secretariat to prepare a background paper on a regional vessel and gear marking system for consideration at PrepCon V. Accordingly, the interim secretariat has prepared this background paper in consultation with the technical staff of the Fisheries Technology Service (FIIT) of the Fisheries Department of the Food and Agriculture Organization of the United Nations.

2. The background paper presents essential considerations for developing a regional fisheries management organization vessel and gear marking systems and provides proposals for such systems. It should be noted that while the background paper seeks to address as many needs of the PrepCon and eventually the Commission as possible, it has been prepared with the objective that it should also be relevant to the development of regional vessel and gear marking systems in general. The proposals on a regional vessel and a fishing gear marking system are presented herein with the objective of stimulating discussion and in no way precludes improvement of the proposals.

II. INTRODUCTION

3. Vessel and gear marking for rapid identification greatly facilitates MCS activities. For this reason, vessel and gear marking requirements are essential components of an effective monitoring control and surveillance (MCS) system and consequently, sound fisheries management. It is also agreed that rapid identification of vessels will enhance safety at sea and greatly facilitates effective search and rescue operations.

4. Relevant international fisheries instruments such as the *United Nations Agreement for the Implementation of Certain Provisions of the 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* (Fish Stocks Agreement), the *FAO Code of Conduct for Responsible Fisheries* (the Code) and the *Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* (Compliance Agreement) require that vessels be marked in a manner that will make them easily identifiable. Only the former two international fisheries instruments require that fishing gear be marked for the same

reason. The requirement in these instruments for vessel and gear marking for easy identification is based on flag state responsibility.

5. Article 18 of the Fish Stocks Agreement provides that the measures to be taken by a State in relation to vessels flying its flag shall include “*requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specification for the marking and identification of fishing vessels*”. The significance of vessel identification in particular is underlined further by article 21(11)(f) which provides that concealing the markings, identity or registration of a fishing vessel is a serious violation.

6. The Compliance Agreement in Article III provides, in respect of the requirement for vessel markings, that “*each Party to the Agreement shall ensure that all fishing vessels entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.*”

7. The Code requires in Article 8.2.3, in respect of markings of fishing vessels that “*[f]ishing 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*”. In respect of gear markings, Article 8.2.4 requires that “*[f]ishing gear should be marked in accordance with national legislation in order that the owner of the gear can be identified*” and that “*[g]ear marking requirements should take into account uniform and internationally recognizable gear marking systems*”.

8. The *FAO Technical Guidelines on Responsible Fisheries 1, Fishing Operations* (Guidelines on Fishing Operations), reinforces the Code by requiring a State to ensure that vessels entitled to fly its flag are marked in accordance with the Standard Specification and Guidelines approved by the FAO Committee on Fisheries (COFI) at its 18th Session, Rome, 10-14 April 1989 (see Annex II of the Guidelines on Fishing Operations) for adoption on a voluntary basis. The Guidelines on Fishing Operations further provide that national legislation should also contain a requirement for the marking of fishing gear and fishing implements in order to identify the owner of the gear. Such requirements should take into account uniform and internationally recognizable gear marking systems. Nets, lines and other gear anchored in the sea as well as fish aggregating devices and nets, lines or fish aggregating devices which drift in the sea should also carry marks to indicate their position and the extent of the gear. Further details are given in Annex III (“*Standard Specifications for the Marking of Fishing Gear*”) and Annex IV (“*Guidelines for the Application of a Standard System of Lights and shapes for the identification and Location of Fishing Gear*”) of the Guidelines on Fishing Operations.

9. The *International Plan of Action to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing* (IPOA-IUU) adopted under the auspices of FAO is the most recent fisheries international instrument that contains requirements relating to vessel and gear markings. Under the requirement that States should ensure that all fishing by their nationals are authorised, the IPOA-IUU provides that States should ensure that authorised vessels are marked in accordance with internationally recognized standards such as the *FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels*. Vessels’ fishing gear should similarly be marked in accordance with internationally recognized standards (see paragraph 47.8).

10. The *FAO Technical Guidelines for Responsible Fisheries 9, Implementation of the International Plan of Action to Prevent Deter and Eliminate Illegal Unreported and Unregulated Fishing* (IPOA-IUU Guidelines) re-emphasises this requirement. It also encourages States to cooperate with others including through regional fisheries management organizations (RFMOs) to prevent, deter and eliminate IUU fishing.

11. It can be safely deduced from the review of international fisheries instruments mentioned above that the requirements for action on markings of vessels and fishing gear are global in scope and applies also to subregional, regional and global organizations concerned with the conservation of fishery resources and management and development of fisheries. States, 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, are required to 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.

12. Evidently, the parties to the *Convention for the Conservation and Management of the Highly Migratory Fish Stocks of the Western and Central Pacific Ocean* (the Convention) were mindful of the importance of vessel and gear markings in the Commission's effort in conserving and managing the highly migratory fish stocks of the western and central Pacific Ocean. They were also very well aware of their commitments, binding or otherwise, under the international fisheries instruments reviewed above. In recognition of these needs and requirements, specific reference is made to the need to make recommendations on vessel and gear marking for consideration by the Commission (Article 14 (Functions of the Technical and Compliance Committee) and Annex III, (Terms and conditions for fishing) Article 6(3)). The PrepCon's agreement at its fourth session in Nadi, Fiji to examine the development of vessel and gear marking systems, simply underscores the significance of these systems for sound fisheries management and seeks to implement the obligations of the members of the Commission as stipulated under the Convention.

III. PROPOSED COMPONENTS FOR A REGIONAL VESSEL AND GEAR MARKING SYSTEM AND CONSIDERATIONS IN DEVELOPING SUCH SYSTEMS

13. The proposals for a regional vessel and gear marking system for consideration by the Preparatory Conference are respectively presented in **Annex A** and **Annex B** to this Background Paper. The proposals were prepared against the following background.

14. An obvious starting point for developing a regional system for vessel and gear marking is the consideration of international commitments and guidelines as set out in legal and voluntary fisheries conservation and management international instruments outlined above. The clear direction stipulated in these international instruments is that vessels and gear should be marked **in accordance with internationally recognized standards or systems**.

15. With respect to vessel markings, the reference to the *FAO Standard Specifications for the Marking and Identification of Fishing Vessels* in international fisheries instruments is overwhelming. Therefore, the use of this international specification as the principal reference document is unavoidable (attached as **Annex C**) and is so used in the preparation of the proposed components for the regional vessel marking system.

16. One internationally recognised national vessel marking system is that which has been developed by Malaysia for vessel marking and identification. This system is part of Malaysia's licensing and registration system that has met ISO 9000 standards (included in **Annex D**). The Malaysian vessel marking system incorporates the use of colour coding, which is linked to a fisheries zoning system (4 zones designated A-B), with a numbering system so that the operational limits of a vessel is quickly ascertained by the zone colour and letter. It should be noted however that Malaysia is not the only country using colour codes for vessel marking as such systems are also in use in, for example, the US particularly in the Fisheries of the Caribbean Gulf and South Atlantic, the Spiny Lobster Fishery of the Gulf of Mexico and South Atlanta and Stone Crab Fishery of the Gulf of Mexico. It should be noted also that the Malaysian marking system applies to fishing gear. The Malaysian system may be worth considering in the development of a vessel and gear marking system, particularly and perhaps initially for developing a national marking system, where there are designated fisheries by species, method of fishing or geographical area. This latter point underscores the importance of ensuring that the Commission has the ability to review and improve the vessel marking system when the need arises and in light of technical advancements in vessel and gear marking or general changes. The proposed components for regional vessel and gear marking systems attempt to cover this concern.

17. With respect to developing a gear marking system, the specification in international circulation and consistently referred to, is the *FAO Recommendations for the Marking of Fishing Gear* (FAO 1991) which forms the basis of the proposal in Annex III **Standard Specifications for the Marking of Fishing Gear in the Guidelines on Fishing Operations**. (see **Annex E**). This specification is used as the principal reference document in developing the proposal for the regional gear marking system. While the primary objective of this Background Paper is to propose a vessel and gear marking system, consideration should also be given to the Rules for the Marking of Nets, Lines and other Gear to Indicate Position (see Appendix 3 of *FAO Recommendations for the Marking of Fishing Gear*) which has been developed into the *Standard System of Lights and shapes for the identification and Location of Fishing Gear* in the FAO Guidelines on Fishing Operations (**Annex F**) which, if permitted to be developed for a RFMO in parallel or in the future to complement the gear marking system, would comprehensively address concerns related to the need for fishing gears to be marked. This was also taken into account in developing the attached proposals.

18. Global trends should also be considered in developing regional vessel and gear marking systems. To this end, the trends based on state practice in the central and western Pacific region and globally, were considered in developing the proposals. The basic finding of the analyses of the requirements relating to vessel and gear marking in national legislation of the States in the central and western Pacific Ocean region (the Participants of PrepCon) and that of selected States is that a majority of the States' legislation prescribe specifications for vessel marking consistent with the *FAO Standard Specifications for the Marking and Identification of Fishing Vessels*. While there are many varieties of gear marking systems in use globally, the *FAO Recommendations for the Marking of Fishing Gear* is the main initiative which attempts to create a common system with basic commonalities. It is for this reason that the FAO recommendations are used as the principal reference document for the development of a regional fishing gear marking system.

19. The practice of RFMOs and multilateral agreements or arrangements was also looked at. In terms of fishing vessel marking systems, a majority of the agreements and arrangements (e.g. US Treaty) adopt and apply vessel marking systems consistent with the *FAO Standard*

Specifications for the Marking and Identification of Fishing Vessels with modifications to reflect the fishery.

20. A regional vessel and gear marking system has to take into account the peculiarities of the regional fisheries. The fisheries of the central and western Pacific Ocean of immediate concern to the Commission by virtue of the Convention is the tuna fisheries (mainly the industrial pole and line, long line and purse seine tuna fisheries).

21. As is evident from the relevant international instruments reviewed above, internationally recognised vessel marking systems and national legislation, a vessel marking system exists and is applied in the context of and in association with a fishing authorisation regime and a vessel registration or record system. In this respect, the Convention requires that a member of the Commission shall ensure that a vessel flying its flag does not fish in the Convention area beyond its national jurisdiction without an authorisation (Article 24). Members of the Commission are also required to maintain a record of fishing vessels authorised to fish in the Convention area beyond its national jurisdiction. The Convention establishes a regional record to which all members of the Commission send information regarding the vessels that are authorised to fish in the Convention area beyond areas under their national jurisdiction. The proposed vessel marking system is designed in this context, in particular that vessels marking requirements shall be met as a condition of an authorisation (licence) and non compliance is an offence which may also be used to deny future issuance of authorisation to the offending fishing operator.

22. Gear marking systems requirements are also operated in association with a fishing authorisation system and as a condition of authorisation. The proposed regional gear marking system is also developed in that context.

23. Above all considerations, Article 6(3) of Annex III of the Convention specifies in clear terms that **“vessels shall be marked and identified in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels or such alternative standard as may be adopted by the Commission”**. It seems therefore that the choices for a vessel marking system for the Commission would be to either reconfirm that the applicable vessel marking system is the *FAO Standard Specifications for the Marking and Identification of Fishing Vessels* or to develop an alternative. The proposed specifications follows the former option, i.e. that the applicable system is the *FAO Standard Specifications for the Marking and Identification of Fishing Vessels* but also assumes that the members of the Commission would wish to modify it so that it directly applies to the operators of vessels of the members of the Commission.

24. Both proposals are presented in a manner that makes them directives rather than being also descriptive in character as is the case with the *FAO Standard Specifications for the Marking and Identification of Fishing Vessels* and the *FAO Recommendations for the Marking of Fishing Gear*. Although the proposals retain the basic requirements of the FAO systems/recommendations, an attempt is made to also make them relevant for the members of the Commission and the fisheries of the western and central Pacific Ocean.

25. In conclusion, it should be noted as associated issues that vessel and gear marking requirements of other RFMOs are part of their larger MCS and enforcement schemes. Thus, the Commission’s vessel and gear marking system might have to be integrated into the wider MCS and enforcement requirements. Thought should therefore be given at a later stage as to how to incorporate the proposed vessel and gear marking systems into the regional MCS scheme perhaps by reference in the general MCS scheme to the adopted marking systems or by assimilating it into

the MCS scheme itself such as is done in a general way in the Northwest Atlantic Fisheries Organization (NAFO) Conservation and Enforcement Measures. Thought should also be given to the procedures for reviewing, amending or enhancing the adopted systems for marking of vessel and fishing gear, including looking at innovative approaches such as the marking of fishing gear which appears to have been used in contravention of conservation measures in effect under the system of inspection of the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). Above all, the Commission in adopting vessel and gear marking systems should be able to adapt its vessel and gear marking systems to changing circumstances including reflecting advances in technology in vessel and gear marking which do not undermine the objectives for which vessel and gear requirements are established in the first place.

IV. REFERENCES

FAO 1985, Report of the Expert Consultation on Fishing Vessel Markings, Halifax, Nova Scotia, Canada, 11-15 March 1985 (FAO Fisheries Report No.343)

FAO 1986, Report of the World Conference on Fisheries. Management and Development, Rome, 16-20 June 1986 (FAO Fisheries Report No.367)

FAO 1989, Report of the Eighteenth Session of the FAO Committee on Fisheries, Rome, 10-14 April 1989 (FAO Fisheries Report No.416). Annex II 2

FAO 1993 Report of the Expert Consultation on the Marking of Fishing Gear, Victoria, British Columbia, Canada 1991, Rome, 1993.

FAO 1993a, Fisheries Report No. 485 Supplement, FAO Recommendations for the Marking of Fishing Gear, Supplement to the Report of the Expert Consultation on the Marking of Fishing Gear, Victoria, British Columbia, Canada 1991, Rome, 1993.

FAO 1995, The Code of Conduct for Responsible Fisheries,

FAO 1996, The FAO Technical Guidelines on Responsible Fisheries, no. 1, Fishing Operations

FAO 2001, The International Plan of Action to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing (IPOA-IUU)

FAO 2002, Technical Guidelines for Responsible Fisheries 9, Implementation of the International Plan of Action to Prevent Deter and Eliminate Illegal Unreported and Unregulated Fishing, Rome 2002

FAO 2003, Recent trends in monitoring control and surveillance systems for capture fisheries, FAO Fisheries Technical Paper 415, Rome 2003

International Fisheries Agreements and instruments

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

An Arrangement Implementing the Nauru Agreement Setting forth Minimum Terms and Conditions of Access to the Fisheries Zones of the Parties

Convention for the Conservation and Management of the Highly Migratory Fish Stocks of the Western and Central Pacific Ocean

Convention on Conduct of Fishing Operations in the North Atlantic

Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean

Convention on the conservation and management of fishery resources in the South-East Atlantic Ocean 20 April 2001

Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region

Northwest Atlantic Fisheries Organization Conservation and Enforcement Measures NAFO/FC Doc. 03/1A.

Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America.

The Harmonised Minimum Terms and Conditions for Foreign Fishing Vessel Access (FFC)

The Federated States of Micronesia Arrangement for Regional Fisheries Access

The North East Atlantic Fisheries Commission Recommendation on a Scheme of Control And Enforcement In Respect of Fishing Vessels Fishing in Areas Beyond the Limits of National Fisheries Jurisdiction in the Convention Area, 1 July 1999.

Text of the CCAMLR System of Inspection

United Nations Agreement for the Implementation of Certain Provisions of the 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.

Samples of national legislation reviewed

Australia

Fisheries Management Act 1991 as amended
Fisheries Management Regulations 1992 as amended

Canada

Fisheries Act [R.S. 1985, c. F-14]
Fishery General Regulations [SOR/93-53]

European Union

Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels.

Marshall Islands

Marine Resources Act 1997

Mauritius

The Fisheries and Marine Resources Act 1998

Namibia

Marine Resources Act 2000

Marine Resources Regulations 2001

Solomon Islands

The Fisheries Act 1998

Tonga

Fisheries Management Act 2002

USA

Title 50 – Wildlife and Fisheries

Chapter III – International Fishing and related Activities,

Part 285 – Atlantic Tuna Fisheries

Part 300 – International Fishing Regulations

Subpart B High Seas Fisheries

Subpart D South Pacific Tuna Fisheries

Subpart G Antarctic Marine Living Resources

Subpart H Vessels of the United States Fishing in Colombian Treaty Waters

Chapter VI – Fishery Conservation and Management National Oceanic and Atmospheric
Administration, Department of Commerce, - Part 600

Part 635 Atlantic Highly Migratory Species

Part 660 Fisheries off West Coast States and in the Western Pacific
