

REPORT OF THE ASEAN-SEAFDEC REGIONAL TECHNICAL CONSULTATION ON INTERNATIONAL FISHERIES RELATED ISSUES 2010

2-4 February 2010, Bangkok, Thailand

I. INTRODUCTION

1. The ASEAN-SEAFDEC Regional Technical Consultation on International Fisheries Related Issues (2010) was organized by the SEAFDEC Secretariat from 2 to 4 February 2010 in Bangkok, Thailand.

2. The Consultation was attended by national delegates from the ASEAN and SEAFDEC Member Countries, namely: Brunei Darussalam, Cambodia, Indonesia, Japan, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. The Consultation was also attended by the SEAFDEC Secretary-General, Deputy Secretary-General, senior officials of the SEAFDEC Secretariat and the Departments; representatives from the ASEAN Secretariat, the Food and Agriculture Organization of the United Nations Regional Office for the Asia and the Pacific (FAO/RAP), and the Swedish Board of Fisheries (SBF); as well as Resource Persons, namely: Dr. John C. Pernetta (formerly from UNEP/GEF) and Mr. Choo-Hoo Giam (CITES Animals Committee Member (Alternate)). The list of participants appears as **Annex 1**.

1.1 Opening of the Consultation

3. The SEAFDEC Secretary-General, Dr. Chumnarn Pongsri welcomed participants to the Consultation, and informed them on the initiatives undertaken by SEAFDEC since 1999 in providing platforms for regional discussion of international fisheries-related issues that may have implications for fisheries development of the region. He reiterated the main objective of the Consultation which is to develop regional coordinated/harmonized positions among the ASEAN-SEAFDEC Member Countries on important issues to be reflected at relevant regional/international fora to safeguard the priorities and interests of the countries. He then outlined the priority issues to be discussed during the Consultation which included the proposed listing of commercially exploited aquatic species at the 15th Meeting of the Conference of Parties for the Convention on International Trade in Endangered Species of Wild Flora and Fauna (COP15-CITES); the development of the FAO Legally-binding Instrument on Port State Measures; the implementation of the EC Regulations on Catch Certification; the progress of WTO discussion on Fisheries Subsidies; the progress in the development of the FAO Technical Guidelines on Aquaculture Certification and Modality for Regional Cooperation in addressing the International Fisheries Related Issues.

4. He also emphasized that the outcomes from this Consultation would be submitted to the 42nd Meeting of the SEAFDEC Council in April 2010, and the 18th Meeting of the ASEAN Sectoral Working Group on Fisheries (ASWGF_i) in May 2010, for consideration and endorsement, and declared the Consultation open. His Opening Remarks appear as **Annex 2**.

5. The Representative from the ASEAN Secretariat, Mr. Suriyan Vichitlekarn, acknowledged the efforts made by SEAFDEC during the past ten years in addressing international fisheries-related issues, particularly through the program on "Assistance of Capacity Building in the Region to Address International Trade Related Issues". He stressed that the program has facilitated the development of common/coordinated positions and joint approaches among the countries in the region. While relevant priority issues would be discussed, this Consultation was also an opportune time to review the Modality for Regional Cooperation in Addressing International Fisheries Related Issues, and to discuss appropriate ways and approaches to effectively address such issues in the future. He expressed his appreciation to SEAFDEC for the aforementioned efforts and to the Japanese Trust Fund for the continued funding support accorded to such initiatives which had paved the way to strengthening

collaboration among ASEAN, SEAFDEC and the Member Countries and in safeguarding the priorities and interests of the countries during the years.

1.2 Background and Introduction

6. A brief background on the roles and activities of SEAFDEC in facilitating discussions on international fisheries-related issues including trade-related issues, particularly the Program on “Fish Trade and Environment (1999-2004)” and “Assistance of Capacity Building in the Region to Address International Trade Related Issues (2005 onwards)” was presented by Dr. Jariya Kankamnerd from the SEAFDEC Secretariat. The activities have fulfilled the SEAFDEC modality for regional cooperation in addressing international fisheries issues which form part of the regional collaborative FCG/ASSP framework. She also elaborated on the objectives of the Consultation, which are to: 1) review and discuss important international fisheries related issues relevant to the region; 2) formulate policy recommendations and proposed coordinated/common positions of the Member Countries on the respective issues; and to 3) identify the required follow-up actions by SEAFDEC and the Member Countries on the relevant issues. The Consultation Prospectus appears as **Annex 3**.

1.3 Adoption of the Agenda and Arrangement of the Consultation

7. The Consultation adopted the agenda, which appears as **Annex 4**.

II. REVIEW AND DISCUSSION ON ISSUES OF REGIONAL CONCERNS

2.1 Issues on Commercially Exploited Aquatic Species to be discussed at the COP15-CITES

8. The CITES Animals Committee Member (Alternate), Mr. Choo-Hoo Giam gave a brief presentation on the roles of CITES in the conservation of commercially exploited species which are threatened with extinction as a consequence of international trade. He reviewed the provisions regarding the regulations on international trade (export, re-export, import and introduction from the sea) for the species that are listed under the CITES Appendices. He also provided a brief outline of the provisions on trade of the species listed under the Appendices I, II and III of CITES, of which the respective certificates (with different provisions and conditions) need to be issued by designated CITES Management Authority of the State. His presentation appears as **Annex 5**.

9. He emphasized the difficulties which could result from the listing of commercially exploited species (including aquatic species) in Appendices I and II, considering that trading of such species could become very complicated, time consuming and costly. Thus, fishing activities, both commercial and small-scale/artisanal, could be seriously affected by the imposition of the CITES regulations. It is therefore a challenge for the ASEAN Member Countries to be actively involved in the discussion of the possible listing of the concerned species in the CITES Appendices in order to prevent unnecessary listing and to safeguard the benefit and interest of the countries of the region. He also reiterated the importance of the provision on “look-alike” species (species of which the specimens in trade look like those of species listed for conservation reasons) under which particular consideration should also be given to the products from certain species (*e.g.* shark meat, fin, oil, etc.) that are difficult to identify at the species level. This could result in the products from those “look-alike” species being subjected to similar trade restrictions.

10. The Representative from FAO/RAP underscored the important purpose of CITES to prevent the extinction of species by regulating the international trade of such species in order to ensure that they are sustainably utilized and that populations could be maintained at sustainable level. He emphasized that the listing exercise of commercially exploited species on the CITES Appendices would be based on the available scientific information. In this regard, he noted that the FAO *Ad hoc* Expert Advisory Panel was established to provide technical advice to CITES on the listing of commercially exploited aquatic species on the CITES Appendices.

11. The Consultation noted the introductory presentation made by Dr. Somboon Siriraksophon from the SEAFDEC Secretariat, on the several commercially exploited aquatic species to be discussed at the COP15-CITES from 13 to 25 March 2010 in Doha, Qatar, particularly on the proposal for the inclusion of these species under Appendices I and II of CITES.

12. The Consultation also took note of the recommendations made by the FAO *Ad hoc* Expert Advisory Panel (**Annex 6**) regarding the CITES listing proposals based on the available evidence as presented by Dr. Simon Funge-Smith from FAO/RAP.

13. The Consultation expressed concerns regarding the implementation of the CITES regulations, *e.g.* burden for countries in the development of administrative procedures to issue certificates to allow the trade of the listed species, effective enforcement that would require human resource development particularly in the identification of sharks species from the traded products, among others. In addition, it was also emphasized that in most countries, fisheries authorities are not directly responsible for CITES-related matters. Therefore, close coordination between the fisheries and CITES authorities at the national level would be necessary to convey the views and positions of the respective countries to be reflected at the CITES fora.

14. In addition to the above concerns, the Representative from Japan also informed the Consultation on his country's views and comments on the CITES Listing Proposals on Commercially Exploited Aquatic Species to be discussed at COP 15-CITES (**Annex 7**). He emphasized that all the proposals are not scientifically justified, and that some of the recommendations of the FAO *Ad hoc* Expert Panel on the CITES listing exercises are based on an excessive precautionary approach. In addition, he stressed that any unjustified listing of commercially exploited aquatic species in the CITES Appendices would also create difficulty in collecting the scientific information which may be necessary for conservation and management of the species in the future.

15. The Consultation took note of the outcomes from the SEAFDEC *Ad hoc* Meeting of Shark Experts in the Southeast Asian Region organized from 28 to 29 January 2010 (**Annex 8**) as presented by Dr. Somboon Siriraksophon. The Consultation particularly noted the recommendations of such meeting in response to the proposals for listing of shark species in the CITES Appendix II and the follow-up actions that need to be taken by SEAFDEC and the Member Countries.

16. A brief review of the status of corals and precious corals under CITES (**Annex 9**) was presented by Dr. John C. Pernetta. He mentioned that several coral species or groups of species had already been listed under the Appendices I, II and III of CITES. In addition, he emphasized that during COP15 of CITES, a proposal to include all members of the family Coralliidae in Appendix II of the CITES would be discussed. He concluded that the evidence presented in the documentation available to COP 15 of CITES was inadequate to support the proposal to include all species within the family Corallidae in Appendix II.

17. Taking note of the views outlined above on the proposals for listing of commercially exploited aquatic species in the CITES Appendices, the Consultation discussed and agreed on the coordinated positions corresponding to the various proposals as shown in the following table:

Listing Proposal	FAO <i>Ad hoc</i> Expert Advisory Panel	Coordinated Position of SEAFDEC Member Countries
<p>Proposal 19: Atlantic bluefin tuna (<i>Thunnus thynnus</i>) (Linnaeus, 1758) in Appendix I</p>	<p>The Species meets the criteria for Appendix II</p> <p>(refer to original proposal No. 28)</p>	<p><u>Not to support the Proposal for listing of Atlantic bluefin tuna either in the Appendix I or Appendix II of CITES, due to the following reasons:</u></p> <ul style="list-style-type: none"> i. Fisheries resources should be managed by the relevant RFMOs, <i>i.e.</i> International Convention for the Conservation of Atlantic Tuna (ICCAT), of which the full traceability system for the distribution and trade of the Atlantic bluefin tuna was established, and more stringent conservation and management measures were recently issued in 2009 to rectify the over-exploitation status of the resources and ensure sustainability of the fisheries (<i>e.g.</i> 40% reduction in Total Allowable Catch (TAC), and 50% reduction of the purse seine fishing period). Thus, the listing of Atlantic bluefin tuna would undermine the role of ICCAT in the management of Atlantic bluefin tuna resources. ii. TAC should be used to manage the Atlantic bluefin tuna fisheries. To calculate the appropriate level of TAC, scientific data need to be collected and the best way to collect scientific data is through the landing data. iii. Distinction of the meat and product of Atlantic bluefin tuna from other tunas is difficult. Identification based on DNA profiling is costly and time-consuming. iv. There are “look-alike” species which are similar morphologically and difficult to distinguish from the Atlantic bluefin tuna v. The use of hypothetical Pre-exploitation Spawning Biomass (B_0) to calculate the baseline level in the proposal is not appropriate, and the observed Maximum Spawning Biomass (B_{max}) which is based on scientific data from fisheries should be used instead.
<p>Proposal 18: Spiny dogfish, (<i>Squalus acanthias</i>) in Appendix II</p>	<p>Did not support listing in Appendix II</p> <p>(refer to origin proposal No. 29)</p>	<p><u>Not to support the Proposal for listing of Spiny dogfish in Appendix II of CITES due to the following reasons:</u></p> <ul style="list-style-type: none"> i. The available evidence does not support the proposal, as also mentioned by the FAO <i>Ad hoc</i> Expert Advisory Panel. ii. The alleged declining Spiny dogfish population in certain areas, <i>i.e.</i> Eastern North Atlantic, the Mediterranean, and Western North Pacific, does not necessarily mean that the overall Spiny dogfish populations are commercially threatened. Taking into account the differences in the population situation of Spiny dogfish in each geographical area, such approach could not be considered scientific. iii. Spiny dogfish is not generally traded in whole body form but as processed products such as

		fillet or dressed meat. Therefore, it is difficult to identify and differentiate them from other sharks or fish species, which could lead to implementation problems such as administrative and trading burdens, confusion in the enforcement of the CITES regulation.
Proposal 17: Porbeagle shark (<i>Lamna nasus</i>) in Appendix II	Supported listing in Appendix II (refer to origin proposal No. 30)	<p><u>Not to support the Proposal for listing of Porbeagle shark in Appendix II of CITES due to the following reasons:</u></p> <ul style="list-style-type: none"> i. This species is distributed in North Atlantic Ocean and in Southern Hemisphere from temperate to sub-Arctic region, and it is epi-pelagic over the continental shelves and in the open ocean. However, only the population in the Atlantic Ocean was assessed without including the population in the Southern Hemisphere. ii. During the joint International Commission for the Conservation of the Atlantic Tuna and International Council for the Exploration of the Sea (ICCAT- ICES), Porbeagle stock assessment meeting in Copenhagen in June 2009 (ICCAT/ICES, 2009), an assessment of the four Porbeagle stocks in the Atlantic Ocean was made. It was estimated that the current biomass of the Northwest, Northeast and Southwest areas were at levels below Maximum Sustainable Yield (MSY), and the current total allowable catch (TAC) in the Northwest and Northeast could allow rebuilding the biomass to the biomass level that can produce MSY (B_{msy}) in some decades. The ICCAT-ICES also recommended that the fishing mortality should be kept below the current level. Thus, the rebuilding of this stock can be achieved only by the current management plan by ICCAT and ICES, and control by CITES should not be necessary. iii. The result of the Japanese drift net survey clearly indicated that the size of stocks in Southern Hemisphere is not that small and could be comparably bigger than the stock in the North Atlantic Ocean.
Proposal 15: Scalloped hammerhead (<i>Sphyrna lewini</i>) and look-alike species, namely Great Hammerhead Shark (<i>S. mokarran</i>), Smooth Hammerhead shark (<i>S. zygaena</i>), Sandbar Shark (<i>Carcharhinus plumbeus</i>)	Supported the listing of Scalloped Hammerhead (<i>Sphyrna lewini</i>), and look-alike species, namely Great Hammerhead Shark (<i>S. mokarran</i>) and Smooth Hammerhead shark (<i>S. zygaena</i>) in Appendix II	<p><u>Not to support the Proposal for listing of Scalloped hammerhead and “look-alike” species in the Appendix II of CITES due to the following reasons:</u></p> <ul style="list-style-type: none"> i. Scalloped hammerhead (<i>Sphyrna lewini</i>) and look-alike species are mostly found in the coastal areas of Southeast Asian countries and due to their habitats in coastal areas, the scale of single stock is small, thus each stock appears to be weak for exploitation. ii. Many countries of Southeast Asia have been exerting efforts to enhance the shark resources in the coastal areas using artificial reefs. Results of some monitoring activities have indicated that these structures now become the refuge of some shark species.

<p>and Dusky Shark (<i>C. obscurus</i>) in Appendix II</p>	<p>Did not support the inclusion of Sandbar Shark (<i>Carcharhinus plumbeus</i>) and Dusky Shark (<i>C. obscurus</i>) as look-alike species.</p> <p>(refer to origin proposal No. 31)</p>	<ul style="list-style-type: none"> iii. Conservation measures including marine protected areas (MPAs) such as the Coral Triangle Initiative and National Plan of Action (NPOA) for sharks are being implemented in the region. iv. Most of the evidences in the Proposal appeared to be scientifically inadequate as it appears to be selective in the use of data that have not been standardized. Though some information indicated that the stock in the Northwest Atlantic is overexploited, latest information using widest coverage of data of this stock clearly shows that the trend of the stock shows gradual but steady recovery since 1994 as a result of introduction of a new management program. This shows the success of the management program, and thus, control by CITES is not necessary for this stock. v. The justification on the declining population of Scalloped hammerhead sharks in particular areas (<i>i.e.</i>, northwest Atlantic (specifically Gulf of Mexico) and the Mediterranean) could not be applied to other populations in other areas (<i>i.e.</i>, South Atlantic, Indian Ocean and Pacific Ocean) due to the differences in population situation of Scalloped hammerhead sharks. vi. The process of issuing certification for the international trade of hammerhead sharks is rather complicated due to the fact that the sharks are mainly landed by small-scale fisheries, and that there are five “look-alike” species of which the by-products could not be easily identified by the regulatory authorities in the international trade markets. vii. If these species are listed to Appendix II, most small-scale coastal fisheries would lose opportunities to sustain their livelihood.
<p>Proposal 16: Oceanic whitetip shark (<i>Carcharhinus longimanus</i>) in Appendix II</p>	<p>Supported listing in Appendix II</p> <p>(refer to origin proposal No. 32)</p>	<p><u>Not to support the Proposal for listing of Oceanic whitetip shark in the Appendix II of CITES due to the following reasons:</u></p> <ul style="list-style-type: none"> i. The species is tropical, oceanic-epipelagic having high trophic level predator but the proposal provided only catch data from coastal areas, therefore the information do not reflect the status of the whole population. ii. One of the major sources of evidence that the stock in the Atlantic is overfished is from Baum and Myers (2004), indicating a decline of 99% over four generations for this species based on the analysis of CPUE of the USA tuna longline fisheries. But the amount of catch of Oceanic whitetip shark by USA is less than 8 tons based on the report by ICCAT, which is roughly corresponding to less than 1% of the total catch in the Atlantic estimated by Clarke et al. (2006). The CPUE of USA longline should not represent the trend of total stock in the Atlantic as this information is not sufficient to conclude that the oceanic

		<p>whitetip stock in the Atlantic is overexploited;</p> <p>iii. Conservation and management measures and efforts taken by countries concerned and Regional Fisheries Management Organizations (RFMOs) are not sufficiently taken into account. Both ICCAT and WCPFC (Western and Central Pacific Fisheries Commission) have designated this species as one of the important shark species and started collecting various data such as catch statistics and biological parameters in preparation for population analyses. While the Scientific Committee of WCPFC would finalize the population analyses in 2010, the Inter-American Tropical Tuna Commission (IATTC) has also commenced preparatory works for the population analyses of this shark and organized a workshop in 2009 for this purpose. In 2009, the Indian Ocean Tuna Commission (IOTC) developed a new fish aggregating device (FAD) in order to minimize by-catch of this species in purse seine fisheries. As such, RFMOs have promoted substantial activities for the conservation and management of this species. Therefore, final decision should be made only after carefully examining RFMOs' activities. Hasty and inappropriate inclusion of this species with insufficient scientific evidence should be avoided.</p>
<p>Proposal 21: All species in the family Coralliidae (<i>Corallium</i> spp. and <i>Paracorallium</i> spp.) in Appendix II.</p>	<p>Did not support listing (refer to origin proposal No. 35)</p>	<p><u>Not to support the Proposal for listing of all species in the family Coralliidae or Precious Corals due to the following reasons:</u></p> <p>i. The evidence presented in the documentation available to COP 15 of CITES was inadequate to support the proposal to include all species within the family Coralliidae in Appendix II.</p> <p>ii. The species under the family Coralliidae are not commercially exploited in Southeast Asia although these precious corals are known to occur in Indonesian, Philippine and Vietnamese waters at depths below 300 m. But the specific identity of these populations is unknown and the species occur only at low densities below the level that would support sustainable commercial exploitation.</p> <p>iii. The documents proposing the inclusion of all species of the family Coralliidae (more than 30 species) in CITES Appendix II contained insufficient scientifically verifiable information to justify the proposal. The document mixed up the information relating to populations of species that were under varying degrees of management for sustainable use with information relating to species and populations that had been over-exploited. It was considered difficult therefore to determine which species, if any, merited inclusion in Appendix II of the Convention in terms of meeting the criteria with respect to rates of decline and size of existing populations in relation to those of pre-exploitation levels.</p> <p>iv. There are strict national laws and regulations in the SEAFDEC member countries relating</p>

		<p>to 'coral' exploitation for commercial purposes and that these existing regulations encompassed precious corals of the family Coralliidae.</p> <p>v. Since none of the species covered by the present proposal were regularly used or traded in the region, there would be considerable difficulties for the SEAFDEC member countries in identifying precious coral species, and enforcing any provisions resulting from their inclusion in CITES Appendix II.</p> <p>vi. Given the absence of significant global trade in precious corals and the absence of evidence suggesting that such trade was the driving force pushing precious coral species towards extinction, placing all members of the family Coralliidae on Appendix II of the Convention is unjustified.</p>
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18. The Consultation also noted that CITES was not designed to regulate the commercial exploitation of marine species, and if the commercially exploited marine species are listed in CITES, it will present enormous enforcement problems and implementation difficulties in the region. Specifically, this would adversely affect everyone from village level fishermen to national fisheries regulators, traders, customs officials, fish processors, legal enforcement agencies and finally to the consumers. Artisanal and small-scale fisheries in developing countries with accidental by-catch, would have no capacity to make non-detriment findings, and would essentially face a trade ban. In addition, distortion in international trade in marine products could arise with some countries favored at the expense of others, *e.g.* CITES permits are not required for trade among the EC States and technical capacity to make non-detriment findings is not necessary, but are required for trade among the ASEAN countries.

2.2 FAO Legally-binding Instruments on Port State Measures for Combating Illegal, Unreported and Unregulated (IUU) Fishing

19. The Consultation was informed on the progress made by FAO since 2007 in the development of the FAO Legally-binding Instrument on Port State Measures for Combating IUU Fishing, making use of the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU) and the FAO Model Schemes on Port State Measures as basis for such development, as well as the outcomes from previous SEAFDEC Meetings relevant to port State measures (**Annex 10**) as presented by Ms. Sawitree Chamsai from the SEAFDEC Secretariat.

20. The Consultation noted that the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing (herein after called the Agreement) had been developed through the Informal Open-ended Technical Meeting to Review the Annexes of the Draft Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate IUU Fishing on 25-27 November 2008, and four FAO Technical Consultations on 23-27 June 2008, 26-30 January 2009, 4-8 May 2009 and 24-28 August 2009, respectively; and the 36th Session of FAO Conference (18-23 November 2009), following which the FAO Council considered and approved the texts of the Agreement. The Director General of FAO had circulated the Agreement to FAO members and non-members, and encouraged them to sign and ratify the Agreement as soon as possible in order to bring it into force.

21. While noting that Indonesia has already signed the Agreement in November 2009 and is in the process of ratifying the Agreement, the Consultation recommended that the existing ASEAN and SEAFDEC mechanisms (SEAFDEC Program Committee, the SEAFDEC Regional Advisory Committee for Fisheries Management in Southeast Asia (RAC), and the ASEAN Fisheries Consultative Forum (AFCF)) should be mobilized to assist or translate the texts of the Agreement in the Southeast Asian perspective to facilitate the implementation of the Agreement in the region and pave the way for the ratification of the Agreement. While recognizing the need for the conduct of a regional workshop to clarify the legal implications of the Agreement with the participation of legal officers from the Member Countries and relevant experts, the Consultation requested SEAFDEC to consider organizing such regional workshop with FAO experts involved in the drafting process of the Agreement as resource persons. It was also recommended that a regional approach should be considered in the establishment of the legal framework for the implementation of the Agreement.

22. The Consultation also expressed the need for capacity building particularly for the developing countries in preparation for the implementation of the Agreement. In this regard, SEAFDEC was requested to coordinate with the Member Countries and consolidate their capacity building requirements, and liaise with FAO/RAP in seeking technical assistance, *e.g.* through the FAO Technical Cooperation Program. SEAFDEC could also develop a policy brief document on the issue, outlining the background, status, key required strategies (areas that need to be addressed) and seek the support from the ASEAN to help the Member Countries in the implementation of the Agreement. In

addition, assistance could also be sought from the EU considering the close linkage of the Port State Measures with the EC Regulation in combating IUU Fishing.

2.3 EC Regulation to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (IUU Fishing)

23. The Consultation was briefed on the background and progress in the implementation of the EC Regulation No 1005/2008 establishing a Community System to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (**Annex 11**) by Dr. Jariya Kankamnerd.

24. The EC Regulation, which entered into force on 1 January 2010, requires that all fishing vessels carrying fishery products that intend to land/transship their catch or trade their products with the EC countries would be required to provide catch certificates and other related documents. While recognizing the need for countries to meet the import requirements when exporting fish and fishery products to EC, the Consultation emphasized that combating IUU fishing is important to ensure sustainability of fisheries in the region.

25. The Representative from the ASEAN Secretariat informed the Consultation of the views shared by the ASEAN Leaders that the issues or responses to the EC Regulation should be dealt with by the individual ASEAN Member States that intend to export their products to the EC. Collective regional measures were therefore considered unnecessary. He also emphasized that the possible development of regional approaches with a view of supporting national capacity building of the respective countries to meet the requirements of the EC Regulation may be considered under the AFCF.

26. While noting that certain countries have started amending their laws and administrative regulations to meet the requirements relevant to the EC Regulation, the Consultation expressed concern on the indirect exportation of fishery products. Although some countries might not be directly exporting their products to the EU but some may be exporting raw materials to other ASEAN countries, to be processed into products for subsequent export to the EC. In such cases, export of such raw materials would need to be accompanied with the EC Catch Certificate acceptable to the EC regardless of the origin or the final trade destination. The Consultation then expressed concerns that under such circumstances, the trade of fish and raw materials among the ASEAN-SEAFDEC countries might still need to comply with the catch certification requirements as the materials may be subsequently re-exported to the EC.

27. While noting the importance of Member Countries to comply with the EC requirements, the Consultation stressed the need for the Member Countries to ensure that the trade flow in the region is maintained.

28. The Consultation requested SEAFDEC to take a proactive role in facilitating the sharing of experiences and information among the Member Countries (*e.g.* difficulties faced by the industry, areas of negotiations with EC, possible solutions/options), in order to enhance the capacity of Member Countries in complying with the requirements of the EC Regulation. In this regard, SEAFDEC would officially request the ASEAN-SEAFDEC Member Countries to nominate their respective focal points on the issues related to catch certification to facilitate communication and information sharing.

29. In addition, considering the close linkages between EC Regulation and regional fisheries management in the region, the Consultation also supported the proposal that the issue could be further discussed in a more detailed manner through the organization of special and focused event by SEAFDEC (possibly with support from SEAFDEC-Sida project and other sources) that could address IUU fishing and the special requirements needed to combat IUU fishing such as port monitoring, vessel records/inventories, catch documentation and certification, to be conducted preferably within six months. Recommendations and suggestions from such event could be followed up by the AFCF and the SEAFDEC/RAC.

2.4 Fisheries Subsidies

30. The Consultation took note of the issues on the new discipline of fisheries subsidies under the World Trade Organization (WTO), Trade Negotiating Group on Rules (NGRs) as well as the draft Chair's Texts on Fisheries Subsidies (TN/RL/W/213) including the prohibited (with exception consideration) and actionable subsidies (**Annex 12**) as presented by Mr. Abdul Rahman Abdul Wahab from Malaysia. In addition, the ASEAN Statements made at Geneva during several meetings in 2009 were also briefly introduced to the Consultation.

31. While noting the need for the Member Countries to recall and confirm their respective views and comments on the Chair's Text (TN/RL/W/213 dated 30 November 2007) on Fisheries Subsidies circulated by the Chair of the NGRs (**Annex 13**), the Consultation, identified the areas and elements that should be given particular consideration by the countries, which include the following:

- Prohibition provision
 - Identification of other prohibited subsidies that should be dropped [in addition to I.1(d)]
- Exception Provision
 - Identification of candidate fisheries subsidies to be included in the Exception Provision, *e.g.* economic crisis situation, enhancing food safety standards
- "Policy Space"
 - Considering the need to balance between development and sustainability of fisheries, elaboration on the contribution from fisheries to livelihood is required.
- Special & Differential Treatment (S&DT)
 - Whether stock assessment as a precondition to fisheries subsidies should be conducted prior or after the granting subsidies; peer review should be conducted before granting subsidies; fisheries management should be prescriptive or indicative; Fisheries Management should be the only conditionality for S&DT; Fisheries Management as conditionality for S&DT should be based on the recognized international fisheries-related instrument or WTO instruments;
 - Identify the core element in Fisheries Management (*e.g.* scientific stock assessment, registration of fishing vessels, fleet operations, harvest, monitoring and surveillance, participation in other fisheries agreement)
 - Whether there should be sub-category of developing countries in the S&DT (*e.g.* contribution to world trade, etc.)
 - Whether there are other attributes that should be considered in granting subsidies, *e.g.* whether vessel length of 10-meters is acceptable
- Capacity building and technical assistance
 - Identify the areas and forms of capacity building activities and technical assistance
- Transition period
 - Whether the transition period (provided for developing countries) should be in order to put the fisheries management system in place, or to bring into conformance of fisheries subsidy.

32. Based on the above areas/elements, the Member Countries were requested to provide their views and positions to the SEAFDEC Secretariat by mid February 2010 for compilation/consolidation. The compiled information would be circulated to all Member Countries for reference in submitting their respective positions to the Chair of the NGRs through appropriate national mechanisms. The information could also be conveyed to the Chair through Indonesia as the ASEAN Rules' Coordinator or through the missions of the respective Member Countries in Geneva.

33. In this regard, the Consultation requested the SEAFDEC Secretariat to collect the information on the position of Malaysia and Indonesia on fisheries subsidies as well as the ASEAN Position on Fisheries Subsidies, and share such information with all Member Countries for their reference in the development and provision of their respective views and position on fisheries subsidies. In addition, the representative from Indonesia also requested the SEAFDEC Secretariat to circulate the document

TN/RL/GEN/150/REV.2 (**Annex 14**) and the joint proposal among Indonesia, India and China to the other Member Countries for reference.

2.5 FAO Aquaculture Certification

34. The Consultation was informed on the background and progress in the development of the FAO Technical Guidelines on Aquaculture Certification (**Annex 15**) as presented by Dr. Joebert Toledo from AQD.

35. During the past decade, the increasing importance of aquaculture in providing fish supply for human consumption, has led to a number of aquaculture certification schemes which were established to ensure responsible aquaculture operations and product safety for human consumption. Under such circumstances, the need for globally accepted norms for aquaculture production, which could provide more guidance and serve as basis for improved harmonization and facilitate mutual recognition and equivalence of the aquaculture certification schemes, was expressed during the Third Session of the FAO Committee on Fisheries Sub-Committee on Aquaculture in 2006. Since 2007, FAO has organized a series of expert/technical workshops to develop the draft texts of the Technical Guidelines on Aquaculture Certification. To revise and finalize the draft texts, FAO will convene a Technical Consultation on Aquaculture Certification Guidelines on 15-19 February 2010 in FAO, Rome, Italy. It is expected that the finalized Guidelines would be submitted to FAO COFI-SCA in June 2010 and subsequently to FAO COFI in early 2010.

36. While noting the areas of the draft Guidelines where comments had been made during the previous discussions and accommodated by FAO as outlined by the representative from Thailand and the representative from the FAO/RAP, the Consultation discussed the specific parts under the Section on “Minimum Substantive Criteria”. The Member Countries were asked to give particular consideration on the criteria in order to facilitate future discussion and finalization of the draft Guidelines :

- Whether or not the Guidelines should address animal welfare and social-responsibility (to be consistent with the other certification schemes)
 - Yes: Animal welfare refers to the OIE Standards on Animal Welfare
 - No: This should focus only animal health (bio-security issues) and not on animal welfare
- Whether the criteria on food safety and quality should cover both safety and quality aspects, to be consistent with the Sanitary and Phyto-sanitary (SPS) and Technical Barrier to Trade (TBT) Agreements
 - It was noted that although safety had already been set as mandatory requirement of CODEX, the aquaculture certification could also cover broader requirements such as quality aspects.

37. While expressing concern on the cost for aquaculture certification which would have to be the responsibility of the producers and would result in higher production costs (although there was no concrete evidence that the product price would increase), the Consultation recommended that certification scheme and system (with elaboration on certification costs) in the region should be considered in the future. In connection with such recommendation, the Consultation was informed that the ASEAN Shrimp GAP is now under development within the ASEAN Shrimp Alliance framework.

III. OTHER ISSUES

3.1 Review the Modality for Regional Cooperation in Addressing International Fisheries Related Issues

38. The Consultation noted that in response to the growing number of international discourses on fisheries-related issues, the SEAFDEC Modality for Regional Cooperation in Addressing International Fisheries Related Issues had been adopted by the SEAFDEC Council and the ASWGF

in 2007, and formed part of the regional collaborative FCG/ASSP framework. The Modality outlined the roles and functions of Parties concerned (*i.e.* all Member Countries, Lead Countries, SEAFDEC Secretariat, SEAFDEC Departments and ASEAN Secretariat), as well as the cooperation mechanism. Under this mechanism, the Consultation requested the SEAFDEC Secretariat to develop an executive report on international fisheries-related issues, summarizing the background and context of the identified issues together with policy considerations/recommendations and the proposed common/coordinated positions by the Member Countries, for submission to the SEAFDEC Council and ASWGFi on an annual basis.

39. The Consultation took note of the close linkage between the process on international fisheries related issues facilitated by SEAFDEC and the process envisaged to be driven under the ASEAN Fisheries Consultative Forum, *e.g.* fisheries subsidies, aquaculture certification, EC catch certification. The Consultation also noted the suggestion made by Thailand on the need to sustain communication and coordination for the AFCF through the inter-sessional period such as via e-conferencing. In this regard, the Consultation suggested that the lead countries assigned by the AFCF to the identified “key cluster” areas such as Indonesia (IUU Fishing), Thailand (Strengthening ASEAN joint approaches position on international trade related issues), and Malaysia (fishing capacity and responsible fishing practices) could be tapped to facilitate the exchange of information.

40. In addition, the Consultation expressed the concern on the frequency of the RTC on International Fisheries-related Issues which is conducted only once a year and recommended that sharing of updated information such as progress on the issues, updates on fisheries laws and regulations of the respective countries (information either from SEAFDEC and Member Countries) throughout the inter-sessional period should be promoted (*e.g.* through e-mail communication, SEAFDEC website, monthly e-newsletter with hyperlinks to website with relevant information, etc.).

41. While noting that the formal communication between SEAFDEC and Member Countries would still be done through the National Coordinators, the Consultation recommended that focal point for each international fisheries-related issue (or cluster of issues) should also be nominated by the Member Countries, SEAFDEC (Secretariat and Departments) and ASEAN in order to enhance communication at a technical level on such issues.

42. In order to enhance the role of SEAFDEC in addressing international fisheries related issues and to ensure that issues important to Member Countries are properly addressed, the Member Countries were encouraged to identify in advance, international fisheries-related issues for future regional discussions. In addition, the Member Countries were also requested to provide their inputs in response to the questionnaires issued by SEAFDEC on the respective issues in order that the information could be compiled and used as a basis for the discussion during the Consultation as well as in the formulation of the regional coordinated position.

IV. ADOPTION OF CONCLUSION, RECOMMENDATION AND REPORT OF THE CONSULTATION

43. The Consultation adopted the report of the Consultation and encouraged the Member Countries to make use of the outcomes from the Consultation as inputs during the discussions at the relevant regional/international fora. In addition, the SEAFDEC Secretariat was requested to prepare the Executive Report on International Fisheries Related Issues (2009-2010) taking into account the conclusion and recommendations made at this Consultation. The Executive Report would be submitted to the 42nd Meeting of SEAFDEC Council and 18th ASWGFi Meeting for their consideration and endorsement.

V. CLOSING OF THE CONSULTATION

44. The Deputy Secretary-General of SEAFDEC, Mr. Hideki Tsubata, expressed his appreciation to the participants and resources persons for their active participation and contribution which enabled

the Consultation to come up with fruitful conclusions. He commended the Consultation for coming up with the coordinated positions and joint approaches on various international fisheries related issues which would eventually safeguard the interests of the Member Countries on the respective issues. He urged that the collaborative spirits among the Member Countries be continued and even strengthened under the SEAFDEC modality on international fisheries related issues. He then declared the Consultation closed. His Statement appears as **Annex 16**.