

LEGALLY AND NON-LEGALLY BINDING LEGISLATION ON SUSTAINABLE AQUACULTURE: THE CODE OF CONDUCT FOR RESPONSIBLE FISHERIES

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Soft law tools are not legally binding documents, which constitute an important instrument for aquaculture activities; these include the Kyoto Declaration (Conference on Aquaculture held in Kyoto, Japan in 1976), the Bangkok Declaration and Strategy (Aquaculture Development beyond 2000) and the Agenda 21. Rio Declaration and Agenda 21 have also provided the basis for the implementation of the 1995 Code of Conduct for Responsible Fisheries (Code of Conduct or Code). On 31 October 1995, during the Twenty-eighth Session of the FAO Conference, more than 170 FAO Member parties adopted unanimously the Code of Conduct of Responsible Fisheries (CCRF). The Code is organized in 12 Articles, and 2 Annexes (all referring to the original elaboration of the Code and Resolution 4/95), however is a non-legally binding, voluntary set of principles.

Although it is not legally binding, FAO has been disseminating the Code in various languages in order to promote its implementation as widely as possible by States, industry, NGOs and other concerned organizations. UN Resolution 4/95, contained in Annex 2 of the Code, urges developing countries to upgrade their fishing capabilities in order to meet the Code's provisions.

CCRF remains the main overarching document on Responsible Fisheries at a global level. Its effectiveness would be much greater not only if it were a legally-binding instrument applied by all FAO member states, but also if it were combined with education and diffusion of culture on sustainable fishing practices.

The main obstacles to its effective application contributing to a weaker control over fishing practices identified in our studies were:

- the cultural differences among the countries;
- diversity of their short-term economic interests;
- difficulties of monitoring illegal fishing and poaching, especially in developing and in politically unstable countries;
- scarcity of data provided by some States.