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**Port State Measures**

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## PORT STATE MEASURES<sup>1</sup>

### Introduction

1. Illegal, unreported and unregulated (IUU) fishing is a major threat to sustainable fisheries management and marine biodiversity. It occurs in all fisheries, whether they are conducted within areas under national jurisdiction or on the high seas. A number of international instruments, which were developed during the 1990s regarding the management of world fishery resources, also address the issue of IUU fishing. Of particular importance in this regard are the 1995 UN Fish Stocks Agreement, the 1993 FAO Compliance Agreement, the Code of Conduct for Responsible Fisheries and the International Plan of Action (IPOA) on Illegal, Unreported and Unregulated (IUU) Fishing. These include thus both so-called hard instruments (which are legally binding on parties to the agreements) and soft instruments which more serve as guidelines and toolboxes, including some options for both States and regional management organisations (RFMOs) in addressing also the issue of IUU fishing.

2. However, despite these agreements and plans, and despite the efforts made by global organisations, by regional bodies and by a great number of States, IUU fishing continues to persist. But the international community cannot give up the fight. Vessels engaged in IUU fishing move in and out of areas under jurisdiction of multiple States and operate within areas of competence of several RFMOs. Thus, a key word in the combat against IUU fishing is cooperation. This could be cooperation in tracing IUU vessels, tracing owners of such vessels and tracing fish and fish products deriving from IUU fishing. Further, in order to harmonise and facilitate cooperation among States and RFMOs some minimum standards for port State measures should be developed.

### Link to flag State responsibilities

3. If all flag States complied with their obligations concerning their fishing fleets, port State control would more or less be superfluous. But this is certainly not the case. Of particular concern is the growing trend in the use of “flag of convenience” (FOC) by fishing vessels. Flagging and re-flagging of vessels is very easy and in some cases just a few moments’ work on the internet is all that is required (for example there are sites offering registration services for named States with a turn-around of 24 hours or less). Under international law, the flag State is responsible for ensuring that vessels abide with relevant rules. However, some countries are willing to sell their flag, with no questions asked in exchange for a licence fee, while exerting no control over the vessel’s activities. “FOC” is a term often used in relation to States with open shipping registers. In a fisheries context, the term would have a wider application as the problem with IUU fishing partly stems from that it is “convenient” to use some specific flags to avoid being bound by conservation and management measures. In principle States with restricted shipping registers could thus be regarded as FOC in relation to fishing. The acronym “FONC” (Flag Of Non-Compliance) avoids the political sensitivities attached to the term “Flag Of Convenience” and also apply to parties and non-parties to RFMOs.

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<sup>1</sup> Paper prepared by Mr. Terje Lobach, Ministry of Fisheries, Norway.

4. Companies and individuals typically have nationalities that differ from those of the vessels themselves and fish deriving from IUU activities are put into the international trade. It is thus absolutely necessary that agencies, international organisations and States establish ways for cooperation, both formal and informal. This is the only way of achieving the goal of preventing, deterring and finally eliminating IUU fishing.

5. The call for port State measures is closely linked to the lack of flag State responsibilities. Thus, port State measures are highly relevant for counteracting IUU fishing and some initiatives have now been taken to address the issue.

### **Memoranda of Understanding (MOUs) for the merchant fleet**

6. Port State regimes have got international acceptance in recent years as a result of numerous agreements concerning the merchant shipping fleet. Inspired by the Paris MOU (Memoranda of Understanding), which was agreed among 18 countries in 1982, several MOUs have been adopted in different regions of the world in order to trace substandard vessels. Such mandatory port State control is tied to internationally agreed rules and standards. IMO has played an important role in this development and in order to ensure universal standards, IMO has developed a global strategy for operating guidelines and training of control officers.

### **Joint FAO/IMO Working Group**

7. Recalling an agreement between IMO and FAO on matters of mutual interest, a joint FAO/IMO Working Group on IUU fishing met in 2000. The main issues examined by the group were related to flag State and port State control. Concerning port State control in brief it was noted that the majority of fishing vessels were not covered by IMO instruments either because fishing vessels were specifically excluded, were outside the size limitations or the flag States are not parties to the relevant instruments. Further it was noted that it might be difficult to introduce port State inspection procedures for fisheries management purposes and fishing vessel safety within existing regional MOUs on port State control. It was also recognized that the mechanism of international or regional MOUs relating to port State control could be used as an important and effective tool for enhancing fisheries management, and addressing IUU fishing. Finally the group agreed that FAO in cooperation with relevant organizations should consider the need to develop measures for port State control to all matters related to the management of fisheries resources.

### **Possible regional strategy**

8. By examining internationally agreed instruments like the UN Fish Stocks Agreement and the IPOA on IUU fishing, measures established by several RFMOs and unilateral approaches taken by some States, it is found that port State control is highly relevant for fishery conservation and management. As the existing MOU on port State control are targeting the standard of the vessel itself, they seem not to be the right vehicles for seeking compliance with fisheries conservation and management measures. It should therefore be considered to take the now widely applicable regional MOUs on merchant shipping as a model for a regional approach to fisheries.

9. A regional system on port State control would require common procedures for inspection, qualification requirements for inspection officers and agreed consequences for fishing vessels found to be in non-compliance.

10. The underlying principle formulated in Article 23 of the UN Fish Stocks Agreement is "the right and the duty" of a port State to take non-discriminatory measures in accordance with international law, in order to "promote the effectiveness of sub-regional, regional and global conservation and management

measures". Emphasis needs to be put not only on the "right", but also on the "duty" and some minimum requirements for port State control should be agreed upon.

11. In order to establish an appropriate system, port States should adopt harmonized mandatory obligations for control of fishing vessels. Some RFMOs have already introduced some port State duties for their members. But these apply only to activities taking place in their areas of competence, which in most cases are outside areas under national jurisdiction of the parties. Further the schemes are of course limited to members of a particular RFMO, consequently creating "Ports Of Convenience" in a region.

### **Current schemes for some RFMOs**

12. In 1989 port State control of fishing vessels was introduced at a regional level for the first time with the adoption of the Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific (the Wellington Convention on Drift-nets). The Convention provides for restriction of both access to the ports and the use of service facilities in the ports of parties for vessels involved in drift-net fishing.

13. In the recent years several RFMOs have established port control obligations, in particular targeting non-parties. In order to combat IUU Fishing by non-Contracting Party vessels, the Northwest Atlantic Fisheries Organization (NAFO) as the first RFMO already in 1997 adopted the «Scheme to Promote Compliance by Non-Contracting Party Vessels with Conservation and Enforcement Measures Established by NAFO», which put certain obligations on the port States of NAFO. The Scheme presumes that a non-Contracting Party vessel that has been sighted engaging in fishing activities in the NAFO Regulatory Area (i.e. the area outside national jurisdiction of NAFO Parties) is undermining the NAFO Conservation and Enforcement Measures. If such vessel enters a Contracting Party port, it must be inspected. No landings or transshipments will be permitted in Contracting Party ports unless vessels can establish that certain species on board were caught outside the NAFO Regulatory Area, and for certain other species that the vessel applied the NAFO Conservation and Enforcement Measures. Contracting Parties must report the results of such port inspections to the NAFO Secretariat, all Contracting Parties and the flag State of the vessel. Similar schemes were later introduced in several other regional bodies.

14. Some of the schemes have later been amended to include blacklisting of IUU vessels. At its annual meeting in 2002 the Commission of the Conservation of Antarctic Marine Living Resources (CCAMLR) agreed to adopt a scheme to promote compliance with CCAMLR conservation measures by Contracting Party vessels and a scheme to promote compliance with CCAMLR conservation measures by non-Contracting Party vessels. These schemes imply that procedures were agreed upon for the establishment and maintenance of lists of fishing vessels (IUU Vessel list) found to have engaged in fishing activities in the CCAMLR-area in a manner, which has diminished the effectiveness of CCAMLR-measures. Also procedures for the removal of vessels from the IUU Vessel list have been adopted. Further Contracting Parties of CCAMLR have agreed to take a number of appropriate domestic actions against vessels appearing on the IUU Vessel list, including not authorizing landing or transshipment in ports.

15. The North East Atlantic Fisheries Commission (NEAFC) has established a similar system for non-party vessels, and NAFO is in the process of introducing a system of blacklisting both non-party IUU-vessels and IUU-vessels flying the flags of Contracting Parties.

16. The International Commission for the Conservation of Atlantic Tunas (ICCAT) has taken a different approach. ICCAT has adopted a measure concerning the establishment of a record of large scale fishing vessels authorized to operate in the Convention area (a so-called "white list"). This implies that only vessels appearing on the list are regarded as being fishing in conformity with applicable ICCAT-measures. Vessels that are not on the "white list" are deemed not to be authorized to fish for, retain on board, tranship or land tuna and tuna-like species. Parties to ICCAT shall take measures, under their

applicable legislation, to prohibit, amongst other things, the transshipment and landing of tuna and tuna-like species by large scale fishing vessels, which are not “white listed”.

17. Even though parties to RFMOs have agreed to take some port measures, port control schemes, which include inspection procedures, result indicators and formats for the exchange of information are rather rare. The vast majority of RFMOs do not have in place appropriate port control schemes. Some have, although, some quite vague references to port inspections. NAFO, for example, has established reciprocal port State control obligations. According to the relevant provision a «Contracting Party whose port is being used shall ensure that its inspector is present and that, on each occasion when catch is offloaded, an inspection takes place to the species and quantities caught». NAFO is, however, now considering strengthening the port state obligation by introducing a more comprehensive system, which include, among other things, harmonised inspection procedures and protocols for exchange of information.

18. In ICCAT parties are encouraged to enter into bilateral agreements/arrangements that allow for an inspector exchange program designed to promote co-operation, share information and educate each party’s inspectors on strategies and operations that promote compliance with ICCAT’s management measures. The port inspection scheme is recognising that most of the recommendations can only be enforced during off-loading and therefore found that port State enforcement is «the most fundamental and effective tool for monitoring and inspection».

19. It should also be mentioned that port control schemes have not been established by CCAMLR or NEAFC.

20. CCAMLR has, however, established a Catch Documentation Scheme for *Dissostichus* spp., which requires control by port States. The Scheme builds on the principle of flag State responsibility, but at the same time the Scheme requires that landings of *Dissostichus* Spp. at its port and all transshipments of *Dissostichus* spp. to its vessels be accompanied by a completed catch document. The document will need to be countersigned by a port State official when the catch is landed. This signature will confirm that the catches landed agree with the details on the document.

21. Some States have established measures reaching further than those established by the regional fisheries management organization to which those States are parties. States like Canada, Iceland, Norway and United States are refusing access to port services for vessels undermining conservation and management measures on the high seas.

### **Application of a MOU**

22. MOUs would have a wider application as not all port States are parties to a RFMO, and required port measures might involve more than one RFMO. In principle port State control should be related to all areas where marine capture fisheries take place. In a context of a possible MOU, such control should be related to areas within the jurisdiction of the port State, areas within the jurisdiction of another State that are Party to the MOU and on the high seas areas managed by a relevant RFMO. Port States should thus examine that fishing undertaken in these areas have been in conformity with established conservation and management measures.

23. In addition a port State should inspect vessels flying the flag of another State where fishing activities took place within the waters of that particular flag State. This last point is in particular important when conservation and management measures concerning shared stocks have been agreed upon between two or more States. Sometimes fishing is conducted within the EEZ of a party to such arrangements, but landed in the port of another State (due to port facilities, price factors, distance from fishing grounds etc.). In these cases it is most likely that the fishing vessels leave the waters of a coastal State without being

inspected to determine whether the fishing has been conducted in accordance with applicable legislation. This is also, however, a general issue as a coastal State may seek assistance from a port State to verify that fishing in the waters of that coastal State has been in accordance with relevant legislation. This may be the only way of obtaining the information required for assessing the situation.

24. In doing so, it is recommended that such an approach should be linked to the existing RFMOs. Most of the conservation and management measures for high seas fishing in different regions are established by such organizations. Thereby the international agreed measures that vessels should comply with, will be those of the relevant organization. Consequently, there is a direct link between that particular organization and port States in the region. In order to achieve a comprehensive system within a region, the RFMOs should be encouraged to enter into agreements on mandatory port State control with port States in the region which are not parties to the relevant regional fisheries body.

25. RFMOs were strengthened by the entry into force of the 1995 UN Fish Stock Agreement and their important role is underlined throughout the agreement. It has also inspired coastal States and distant water fishing nations to cooperate in order to establish organizations in regions previously not covered by such bodies. Further these organizations are responsible for establishing relevant conservation and management measures in areas under respective purviews. Thus, an inspection in port should therefore examine if the fishing vessel in question has operated contrary to any conservation and management measures established by any RFMO. It is also recommended to formalize co-operation between regional fisheries management organizations. Such co-operation would be essential in areas where IUU fishing is the concern of two or more regional bodies. For example, the conservation and management of fish resources in the Atlantic Ocean is the responsibility of several fisheries management organizations. A comprehensive system on port State control would require that IUU fishing within the area of responsibility of one specific organisation should have consequences for port States which have agreed on mandatory measures in another region.

26. In principle port State control should relate to all areas where marine capture fishing operations take place. Port States should thus examine that fishing undertaken in these areas have been in conformity with established conservation and management measures. In summary a port State should examine whether IUU fishing has taken place in:

- a) the Regulatory Area (RA) by a Contracting Party of a RFMO;
- b) the RA by a non-Contracting Party of a RFMO;
- c) waters under national jurisdiction of a Contracting Party by a Contracting Party of a RFMO; and
- d) waters under national jurisdiction of a Contracting Party by a non-Contracting Party of a RFMO.

27. IUU-vessels move from one region to another and are therefore not the concern of one RFMO alone. In order to establish a tight system, a MOU on port State control between such bodies could be a way forward. In that context port States should have the duty to take action against vessels having participated in IUU fishing in areas managed also by other regional bodies. Therefore RFMOs should be encouraged to enter into multilateral agreements on port State control. Such cooperation would be essential in areas where IUU fishing is the concern of two or more regional bodies.

### **FAO Expert Consultation**

28. Following the recommendations by the joint FAO/IMO Working Group and the call for harmonized port State measures in a number of international instruments, FAO has convened an Expert Consultation to review port State measures to combat IUU fishing. The Consultation agreed that regional

MOUs on port State measures also for fishing vessels are highly relevant and examined all aspects of possible MOUs.

29. The Consultation agreed that concerning the *scope* a MOU should apply to all vessels engaged in, or supporting, fishing activities including fishing vessels and vessels transporting fish and fishery products. Criteria for targeting specific vessels might be developed for a given MOU. For instance, vessels flying a “flag of non compliance” (FONC) or vessels having a history of non-compliance established by a RFMO can be particularly targeted.

30. The Consultation noted that whether a MOU is binding or not should be determined by the Parties. A MOU will however include only the minimum requirements for port State measures. The question remained open with respect to the impact of and the effect of the MOU on third parties. To encourage wider application of a MOU, the Consultation observed that some IMO instruments provide that the parties to these instruments apply the requirements in the same manner to vessels of non-parties, as may be necessary, to ensure that “no more favourable treatment” is given to such vessels.

31. The Consultation agreed that port States should require all foreign vessels having engaged in fishing activities or transporting fish and fishery products to provide a *prior notice* of the intention to use a port, its landing or transshipment facilities. While failure to provide satisfactory information submitted in the prior notification might be a reason for denial of access to port, the Consultation noted that it might be advisable to allow a vessel into port in order to ascertain whether a vessel has engaged in or supported IUU fishing.

32. The Consultation further noted that port States might, on the basis of objective and non discriminatory criteria, *set out conditions of entry to their ports or deny access* to their ports by foreign fishing vessels that have engaged in, or supported, IUU fishing. In cases of distress and force majeure vessels have a right to entry to ports under customary international law. In addition, there might be bilateral or multilateral arrangements might be in place providing reciprocal free access to ports as well as dealing with trade related matters. It was also observed that denial of access to port in order to combat IUU fishing might not always be appropriate in practice.

33. The need for *harmonized and coordinated approaches for inspection* was discussed in the Consultation and it received wide support. The Consultation considered that the use of a unique fishing vessel numbering system could be a useful tool for the effective implementation of a MOU on port State measures. It noted that a system for numbering vessels is applied in IMO. This system is based on the Lloyds register fair-play system.

34. The Consultation also observed that a harmonized system of certification of fishing vessels, including the clear identification of the vessel owners and managers, could be useful to facilitate the inspection of vessels in port States.

35. Concerning *sanctions*, the Consultation recognized that if a vessel is found to have violated applicable legislation in waters under jurisdiction of the port State, the latter should exercise jurisdiction as a coastal State and initiate proceedings accordingly. In other situations, port States could choose between several possible actions. With the exception of detention, arrest or other measures against crew, a port State could take other more appropriate action. Such action could include refusal to allow landing of fish and fishery products, forfeiture of fish and fishery products, or refusal to permit a vessel to leave its port pending consultation with the flag State of the vessel.

36. The Consultation recognized that awareness about, and *capacity building* in, port State measures, especially in developing countries, is vital to have a wide application of port State measures to prevent, deter and eliminate effectively IUU fishing.

37. The Consultation noted that the *exchange of information and data* would be crucial for effective implementation of port State measures to combat IUU fishing.

38. Following the discussions on, and the in-depth review of, the elements that might be included in regional MOUs, the Expert Consultation elaborated a draft MOU on Port State Measures to combat IUU Fishing. This could be used as a template in case initiatives are taken to develop regional MOUs.

39. COFI (FAO' Committee of Fisheries) agreed in March last year that FAO should convene a Technical Consultation to Address Substantive Issues Relating to the Role of the Port State to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, which will take place at FAO headquarter in late August this year.

### **Conclusion**

40. The conclusion is thus very brief. States should recognize that a number of international agreed instruments call for the establishment of compatible measures for port State control and participate actively in the upcoming FAO consultation to develop a MOU that can serve as a model in this regard.

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## ANNEX 1

### DRAFT MEMORANDUM OF UNDERSTANDING ON PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING<sup>2</sup>

*The Parties* to this Memorandum,

*Concerned* that illegal, unreported and unregulated (IUU) fishing continues to persist;

*Emphasizing* that effective action by port States is required to prevent, deter and eliminate IUU fishing;

*Noting* that the relevant international instruments call for port States to establish measures to promote the effectiveness of subregional, regional and global conservation and management measures;

*Recognizing* that the Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, promote the use of measures for port State control of fishing vessels in order to meet the objectives of the Code and the plan;

*Desiring* to achieve co-operation and co-ordination in fisheries-related port State control in accordance with international law;

*Emphasizing* the need for non-Parties and fishing entities to take action consistent with this Memorandum;

have agreed as follows:

#### **Scope**

In this Memorandum,

references to fishing vessel includes vessel transporting fish and fishery products unless otherwise provided for in the text of the Memorandum; and

references to ports include offshore terminals and other installations for landing, transshipping, refuelling or re-supplying.

#### **Commitments**

Each Party to this Memorandum undertakes to:

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<sup>2</sup> Expert Consultation to review port state measures to combat illegal, unreported and unregulated fishing, Rome 4-6 November 2002.

give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum;

maintain an effective system of port State control with a view to ensure that foreign fishing vessels calling at its port, comply with relevant<sup>3</sup> conservation and management measures;

require prior to allowing a foreign fishing vessel port access that the vessel provides a notice at least xx hours in advance which includes vessel identification, the authorization(s) to fish, details of their fishing trip, quantities of fish on board and other documentation<sup>4</sup>;

require prior to allowing a vessel transporting fish and fishery products port access that the vessel provides a notice at least xx hours in advance which includes vessel identification, the transport document(s), quantities of fish and fishery products on board and other documentation<sup>5</sup>;

where there are reasonable grounds to believe that a fishing vessel has engaged in or supported IUU fishing in waters beyond the limits of its fisheries jurisdiction, either refuse to allow the vessel to use its port for landing, transshipping, refuelling or re-supplying or to take measures such as forfeiture of fish and fishery products, as may be provided for under its national legislation;

not to allow a vessel to use its ports for landing, transshipping or processing fish if the vessel which caught the fish is entitled to fly the flag of a State that is not a contracting or collaborating party of a regional fisheries management organization or has been identified as being engaged in fishing activities in the area of that particular regional fisheries management organization, unless the vessel can establish that the catch was taken in a manner consistent with the conservation and management measures;

not to allow a vessel to use its ports for landing or transshipment where it has been established that the vessel has been identified by a regional fisheries management organization as having a history of non-compliance with its conservation and management measures;<sup>6</sup>

designate and publicize ports to which foreign fishing vessels may be permitted admission and ensure that these ports have the capacity to conduct port inspections;

ensure that port inspections take place in accordance with Appendix A;<sup>7</sup>

obtain in the course of such inspections, at least the information listed in Appendix B; and

consult, cooperate and exchange information with other Parties in order to further the aims of this Memorandum.

## **Inspections**

In fulfilling its commitments under this Memorandum each Party undertakes to:

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<sup>3</sup> The creation of a list of relevant conservation and management measures for a particular MOU might be required.

<sup>4</sup> The details to be provided for in a prior notice should be agreed upon for each MOU.

<sup>5</sup> See footnote 2

<sup>6</sup> The RFMO should identify such vessels through agreed procedures in a fair, transparent and non-discriminatory manner.

<sup>7</sup> An annual total number of inspections corresponding to at least XX % of the number of individual vessels to which the MOU applies should be agreed upon.

carry out inspections in its ports for the purpose of monitoring compliance with relevant<sup>8</sup> conservation and management measures;

ensure that inspections are carried out by properly qualified persons authorized for that purpose, having regard in particular to Appendix C;

ensure that prior to an inspection, inspectors shall be required to submit to the master of the vessel an appropriate identity document;

ensure that an inspector can examine all areas of the fishing vessel, the catch (whether processed or not), the nets or other gear, equipment, and any document which the inspector deems necessary to verify compliance with relevant<sup>9</sup> conservation and management measures; and

ensure that the master of the vessel is required to give the inspector all necessary assistance and information, produce relevant material and documents as may be required, or certify copies thereof.

Subject to appropriate arrangements with the flag State of a vessel, the inspecting port State may invite the flag State to carry out or participate in the inspection.

When exercising inspections the port State will make all possible efforts to avoid unduly delaying a vessel.

### **Actions**

If an inspector finds that there are reasonable grounds for believing that a foreign fishing vessel has engaged in activities including, *inter alia*, the following<sup>10</sup>;

- a) fishing without a valid licence, authorization or permit issued by the flag State;
- b) failing to maintain accurate records of catch and catch-related data;
- c) fishing in a closed area, fishing during a closed season or without, or after attainment of, a quota;
- d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- e) using prohibited fishing gear;
- f) falsifying or concealing the markings, identity or registration of the vessel;
- g) concealing, tampering with or disposing of evidence relating to an investigation; or
- h) conducting activities which together might be regarded as seriously undermining applicable conservation and management measures

then the port State shall promptly notify the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organizations.<sup>11</sup>

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<sup>8</sup> See footnote 1

<sup>9</sup> See footnote 1

<sup>10</sup> Activities other than those listed below may be specified in procedures established by a relevant RFMO (one particular example is failure to comply with Vessel Monitoring Systems (VMS) requirements).

<sup>11</sup> In each region there may be reference to applicable international instruments.

The port State shall take due note of any reply or any actions imposed or taken by the flag State of the inspected vessel.<sup>12</sup> Unless the port State is satisfied that the flag State has taken or will take adequate action, the vessel shall not be allowed to land or tranship fish in its ports.

### **Information**

Each Party undertakes to report on the results of its inspections under this Memorandum to the flag State of the inspected vessel, the parties to this Memorandum, and to relevant regional fisheries management organizations.

Each Party undertakes to establish a communication mechanism that allows for direct, computerized exchange of messages between relevant States, entities and institutions, with due regard to appropriate confidentiality requirements.

The information will be handled in a standardized form and in accordance with the established procedures as set out in Appendix D.

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<sup>12</sup> It is recommended to establish a list of contact points in the relevant administration of each Party to the Memorandum.

## APPENDIX A

### Inspection Procedures of Foreign Fishing Vessels

#### 1. Vessel identification

The inspector shall

be satisfied that the certificate of registry is valid;

be assured that the flag, the external identification number (and IMO-number if available) and the international radio call sign are correct;

examine whether the vessel has been re-flagged and if so, note the previous name (s) and flag (s);

note the port of registration, name and address of the owner (and operator if different from the owner) and the name of the master of the vessel; and

note name(s) and address(es) of previous owner(s), if any.

#### 2. Authorization(s)

The inspector shall be satisfied that the authorization(s) to fish or transport fish and fishery products are compatible with the information obtained under paragraph 1 and examine the duration of the authorization(s) and their application to areas, species and fishing gear.

#### 3. Other documentation

The inspector shall review all relevant documentation<sup>13</sup> which may include various logbooks, in particular the fishing logbook, stowage plans and drawings or descriptions of fish holds. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans.

#### 4. Fish and fishery products

The inspector shall, to the greatest extent possible, examine whether the fish on board is harvested in accordance with the conditions set out in the authorization. In doing so, the inspector shall examine the fishing logbook, reports submitted, including those resulting from a vessel monitoring system (VMS).

If the inspector has reasonable grounds to believe that a vessel has engaged in or supported IUU fishing the inspector may review the amount and composition of all catch on board to verify whether the fish has been taken in the areas as recorded in the relevant documents.

In order to determine the quantities and species which are fresh on ice, frozen but not packed, processed, packed or in bulk, the inspector [shall/may]<sup>14</sup> examine the fish in the hold or during the landing.

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<sup>13</sup> It is understood that documentation includes documents in electronic format.

<sup>14</sup> In view of certain practical problems of such inspections, this has been presented in the alternative "shall/may".

In doing so, the inspector may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.

If the vessel is discharging, the inspector shall verify the species and quantities landed. Such verification shall include presentation (product form), live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. The inspector shall also examine any possible quantities retained on board.

## **5. Fishing gear**

The inspector shall be satisfied that the fishing gear on board is in conformity with the conditions of the authorization(s). The gear [shall/may]<sup>15</sup> also be checked to ensure that the mesh size(s) (and possible devices), length of nets, hook sizes etc. are in conformity with applicable regulations and that identification marks of the gear correspond to those authorized for the vessel.

The inspector [shall/may]<sup>16</sup> also search the vessel for any fishing gear stowed out of sight.

## **6. Report**

The result of a port inspection shall be presented to the master of the vessel and a report shall be completed, signed by the inspector and the master. The master shall be permitted the opportunity to add any comments to the report.

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<sup>15</sup> See footnote 12

<sup>16</sup> See footnote 12

## APPENDIX B

### Results of Port Inspections

Results of port inspections shall include at least the following information:

#### 1. Inspection references

Inspecting authority (name of inspecting authority or the alternate body nominated by the authority);

name of inspector;

port of inspection (place where the vessel is inspected); and

date (date the report is completed).

#### 2. Vessel identification

Name of the vessel;

type of vessel;

external identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate;

international Radio Call Sign;

MMSI-number (Maritime Mobile Service Identity number), if available;

flag State (State where the vessel is registered);

previous name(s) and flag(s), if any;

whether the flag State is party to a particular regional fisheries management organization;

home port (port of registration of the vessel) and previous home ports;

vessel owner (name and address of the vessel owner);

vessel operator, responsible for using the vessel if different from the vessel owner;

name(s) and address(es) of previous owner(s), if any; and

name and certificate(s) of master.

#### 3. Fishing authorization (licenses/permits)

The vessel's authorization(s) to fish;

State(s) issuing the authorization(s);

areas, scope and duration of the authorization(s);

species and fishing gear authorized; and  
transshipment records and documents<sup>17</sup> (where applicable).

**4. Trip information**

Date trip commenced (date when the current trip started);  
areas visited (entry to and exit from different areas);  
ports visited (entry into and exit from different ports); and  
date trip ended (date when the current trip ended).

**5. Result of the inspection on discharge**

Start and end (date) of discharge;  
fish species;  
presentation (product form);  
live weight (quantities determined from the log book);  
conversion factor (as defined by the master for the corresponding species, size and presentation);  
processed weight (quantities landed by species and presentation);  
equivalent live weight (quantities landed in equivalent live weight, as “product weight multiplied with the conversion factor”); and  
intended destination of fish and fishery products discharged.

**6. Quantities retained on board the vessel**

Fish species;  
presentation (product form);  
conversion factor (as defined by the master for the corresponding species, size and presentation);  
processed weight; and  
equivalent live weight.

**7. Results of gear inspection**

Details of gear type inspected and attachments, if any.

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<sup>17</sup> The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Appendix B.

## APPENDIX C

### Training of Port Inspection Officers<sup>18</sup>

Elements that shall be included in a training program:

Overview of conservation and management measures applicable for a particular Memorandum Of Understanding;

information sources, such as log books and other electronic information that may be useful for the validation of information given by the master of the vessel;

fish species identification;

catch landing monitoring, including determining conversion factors for the various species and products;

vessel boarding/inspection, hold inspections and calculation of vessel hold volumes;

gear inspections;

gathering, evaluating and preservation of evidence; and

range of measures available following the inspection.

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<sup>18</sup> More extensive criteria should be developed for the qualification (e.g. skills and knowledge) of inspectors. The skills and knowledge listed below are minimum requirements.

## APPENDIX D

### Information System on Inspections

**1. Computerized communication between States and between States and relevant RFMOs would require the following:**

Data characters;

structure for data transmission;

protocols for the transmission; and

formats for transmission including data element with a corresponding field code and a more detailed definition and explanation of the various codes.

**2. International agreed codes shall be used for the identification of the following items:**

States: 3-ISO Country Code;

fish species: FAO 3-alpha code;

fishing vessels: FAO alpha code;

gear types: FAO alpha code;

devices/attachments: FAO 3-alpha code; and

ports: UN LO-code.

**3. Data elements shall at least include the following:**

Inspection references;

vessel identification ;

fishing authorization(s) (licenses/permits);

trip information;

result of the inspection on discharge;

quantities staying on board the vessel;

result of gear inspection;

irregularities detected;

actions taken; and

information from the flag State.