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**DIRECTORATE FOR FOOD, AGRICULTURE AND FISHERIES
FISHERIES COMMITTEE**

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NATIONAL MEASURES AGAINST IUU FISHING ACTIVITIES

This document is a compilation of the country notes on national measures against IUU Fishing Activities submitted by Member countries. It is submitted to the IUU Workshop as background documentation.

This is work in progress and is not for quotation.

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NATIONAL MEASURES AGAINST IUU FISHING ACTIVITIES**(Note by the Secretariat)**

In its programme of work 2003-2005, the OECD Fisheries Committee launched a study on the environmental, economic and social issues and effects of IUU fishing activities on the high seas. As a core part of study, the Committee decided at its 91st Session to develop an inventory of national measures in place against IUU fishing activities. This study outlines existing frameworks for measures in place in Member countries against IUU fishing activities on the high seas as well as in national EEZs. According to a questionnaire prepared by the Secretariat, the country notes provide detailed information on individual OECD countries' national measures in place and other potential legal measures that are being considered within the framework of a national plan of action on IUU fishing activities. The main categories of national response are made up of legal measures and regulations, economic measures, and other social/ethical measures.

In the section on legal measures, there is emphasis on the rules and regulations dealing with national flagged vessels' fishing activities within other country's EEZs and on the high seas. It also includes extra-territorial application of regulatory measures and regulations on foreign fishing vessels' activities within national EEZ. It also includes information on the responsibilities of foreign vessels (such as installation of VMS, catch reporting etc.) and overview of the penalty structures regarding IUU fishing activities including fines, confiscation of catches and vessels, and the detention of vessels and crews. Economic measures encompass investment rules regarding fishing vessel ownership. Trade rules on fish and fish products of IUU origin are included under economic measures. Restrictions on foreign direct landings (including use of ports) and transshipments from foreign fishing vessels are also referred to in this section. Other measures focus on moral/ethical measures to prevent IUU fishing activities, particularly largely non-economic and social mechanisms that discourage engagement in IUU fishing activities.

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AUSTRALIA

General Overview of Australia's fisheries regulatory framework

1. Following a review of Australia's fisheries in 1988, the Australian Fisheries Management Authority (AFMA)¹ was established in February 1992 as a statutory authority reporting to an independent board. AFMA deals with compliance and licensing services and manages Australian fisheries from the baseline from which the breadth of the territorial sea is measured to the edge of the 200 nm limit of the Australian Exclusive Economic Zone (EEZ). The Department of Agriculture, Fisheries and Forestry (DAFF)² remains the central point for policy development, advice and coordination on national and international fisheries management issues.
2. DAFF and AFMA work closely with industry, other Australian Government Departments, State fisheries agencies, the recreational fishing sector, environment and indigenous groups. While AFMA administers the *Fisheries Management Act, 1991* (FMA)³, DAFF is responsible for legislative amendments and provides advice to the Australian Minister for Fisheries, Forestry and Conservation.

International Legal Measures and Regulations

3. Australia is committed to fulfilling its obligations under international law, in particular agreements and arrangements concerning fishing and the conservation and management of fish stocks and other living marine resources.
4. Australia has ratified the United Nations Convention on Law of the Sea, the United Nations Fish Stocks Agreement (UNFSA) the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Agreement for the Establishment of the Indian Ocean Tuna Commission (IOTC), Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific (WCPFC) and the Convention on the Conservation of Southern Bluefin Tuna (CCSBT).
5. Australia is currently in the process of accepting the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.
6. Australia has adopted the principles of the International Plan Of Action on illegal, unreported and unregulated (IUU) fishing, the Food and Agriculture Organisation (FAO) Code of Conduct for Responsible Fisheries and is currently in the process of developing a National Plan of Action on IUU under the IPOA-IUU.

¹ Further information on the Australian Fisheries Management Authority can be located at their website (www.afma.gov.au).

² Further information on the Australian Government Department of Agriculture, Fisheries and Forestry can be located at their website (www.daff.gov.au).

³ A copy of the *Fisheries Management Act, 1991* can be located at the Australian Fisheries Management Authority website (www.afma.gov.au).

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Bilateral Arrangements relevant to the Commonwealth of Australia

7. Australia views regional cooperation as an important tool for effective management of its marine resources and has developed bilateral arrangements⁴ with a number of like-minded States

- **Torres Strait Treaty:** The Torres Strait Treaty, ratified in 1985 between Australia and Papua New Guinea, defines the areas of jurisdiction for swimming and sedentary marine resources in the Torres Strait and established an area known as the Torres Strait Protected Zone (TSPZ). The Treaty sets out a framework to guide both countries in providing for the management, conservation and sharing of fisheries resources in and around the TSPZ. It also sets out guidelines for the enforcement of fisheries legislation;
- **Indonesian Memorandum of Understanding (MoU) Box:** Australian northern waters include areas within the Australian EEZ where traditional fishing by non-motorised foreign vessels operating from parts of the Indonesian archipelago has taken place for centuries. Under a 1974 MoU with Indonesia, Australia allows traditional fishing within a specified area (the 'MoU Box') around Ashmore and Cartier reefs;
- **New Zealand Orange Roughy MoU:** The South Tasman Rise Fishery is the major component of the Australian Orange Roughy industry. The fishery has undergone extensive development in the past five years including the signing of a MoU on management arrangements between the governments of Australia and New Zealand for waters of the fishery outside the Australian EEZ.
- **Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands:** The Treaty was signed on 24 November 2003 and facilitates cooperative surveillance for remote French and Australian Territories in the Southern Ocean, which are subject to a high level of IUU fishing activity targeting Patagonian toothfish. Australia is in the process of ratifying the Treaty.
- **Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America:** This multilateral Treaty was developed to provide United States vessels access to fish within the waters of 16 Fisheries Forum Agency member countries in pursuit of migratory fisheries species (predominantly tuna) in exchange of licence fees. The Treaty came into force on 15 June 1988, since this time there have been several extensions of the Treaty.

Relevant Australian legislation

8. The following legislation is relevant to fisheries management and compliance.

- **Fisheries Management Act 1991 (FMA):** AFMA under the FMA manages commercial fishing activity by Australian and foreign nationals in the Australian EEZ and Australian nationals on the high seas.
- **Fisheries Administration Act, 1991:** Provides AFMA with functions and responsibilities relating to the management of fisheries on behalf of the Commonwealth; and establishes a

⁴ A copy of Australia's bilateral arrangements can be located at the Australian Treaties Database (www.info.dfat.gov.au/treaties).

- ***Fishing Industry Policy Council***, which ensures that industry stakeholders are engaged in the development of fisheries management.
- ***Shipping Registration Act 1982 (SRA)***⁵: Registration of ships is undertaken by the Australian Maritime Safety Authority (AMSA) in accordance with the SRA. The SRA sets out provisions and associated regulations for the registration of vessels.
- ***Torres Strait Fisheries Act, 1984***: Gives effect to the Torres Strait Treaty.
- ***The Fishing Levy Act 1991, Foreign Fishing Licences Levy Act 1991*** and ***Fisheries Agreements (Payments) Act 1991*** enable the imposition of management levies and access fees payable by Australian and foreign fishermen, foreign governments and foreign commercial interests. ***The Statutory Fishing Rights Charge Act 1991*** enables a charge to be levied on the grant of new fishing rights.

9. Other Acts such as those for quarantine, customs, crimes and environmental protection and biodiversity conservation also assist in the regulation of Australia's fisheries.

10. The States and Territories also manage Australian State and Territory fisheries under laws relevant to the fisheries in their jurisdiction.

1. Legal Measures and Regulations

a) Fishing activities by national vessels

11. The FMA gives Australian fisheries officers the right to order Australian flagged vessels to move to an appropriate place at sea and/or stop to facilitate boarding and inspection to ensure that the vessels activities are not in contravention of the concession or temporary order that the vessel holds. AFMA may also authorise officials of a party to the UNFSA to board Australian vessels and investigate alleged breaches of domestic or international laws when the vessel is outside the Australian EEZ.

12. Where there are reasonable grounds to believe that a breach of the fishing concession has occurred, AFMA may revoke the vessels authorisation to fish and the vessel can be ordered back to port. A maximum of 500 penalty units or AUD 55 000 (Currently 1 penalty unit = AUD 110) can apply to the Master and each of the crew members of an Australian flagged ship with fish or fishing equipment on the high seas or in foreign waters (includes a foreign EEZ, territorial sea, archipelagic waters or internal waters) without or in contravention of an appropriate concession or scientific permit.

13. While fishing the high seas Australian nationals must also comply with regulatory measures established by Regional Fisheries Management Organisations (RFMO) of which Australia is a member. There is a provision within the FMA that allows Australia's Attorney General to authorise a foreign country to take specified action, against an Australian flagged vessel, to enforce a law of the foreign country in response to a contravention of a RFMO conservation or management measure on the high seas.

14. If an action is authorised by the Attorney General and a person is convicted or acquitted of an offence in a foreign country, the FMA precludes the offending person from being convicted for the same offence under Australian law.

⁵ A copy of the *Shipping Registration Act, 1982* can be located at the Australian Maritime Safety Authority website (www.amsa.gov.au).

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Control of Australian nationals

15. The Australian Government introduced legislation to Parliament, which came into effect in December 2001 that requires Australian-flagged fishing vessels to be authorised to fish in waters outside the Australian EEZ on the high seas and in foreign waters (includes a foreign EEZ, territorial sea, archipelagic waters or internal waters). It is an offence for an Australian-flagged fishing vessel to operate on the high seas without the appropriate authorisation.

16. According to FMA regulations, operators using Australian-flagged vessels on the high seas are required to mark their vessels in accordance with the United Nation's FAO standard specifications, facilitate the carriage of observers, complete catch and effort logs, notify the relevant authority when departing and entering the Australian EEZ and operate a vessel monitoring system (VMS), which reports to AFMA. In addition, Australian-flagged vessels are required to operate in a manner that does not contravene Australia's obligations under international conventions, regional fisheries management organisations and other agreements to which Australia is a party.

17. To fish outside the Australian EEZ, an operator must apply for a concession from AFMA that is relevant to the area they are seeking to fish. The Government may revoke the concession if there is a breach of a condition of the concession or if the operator is convicted of an offence under the FMA.

18. The FMA states that AFMA must not authorise an Australian fishing vessel to fish on the high seas for straddling or highly migratory fish stocks in the period where a court has convicted an individual for a fisheries offence, which is in contravention of a regional management measure. AFMA can authorise the vessel to resume fishing once the penalty has been posed, in most cases the payment of a fine.

Compliance tools to control high seas fishing

19. There have been no examples of IUU fishing activities by Australian flagged vessels on the high seas or in other countries exclusive economic zone.

b) *Fishing activities by foreign vessels within EEZ*

20. Foreign fishing vessels (FFVs) are not permitted to fish within the Australian EEZ without appropriate authorisation and the granting of a foreign fishing licence. It is believed that Australia's fish resources are either fully exploited or there is sufficient capacity within domestic operations for the resource to be fully utilised. Foreign fishing access to the Australian EEZ is strictly regulated and limited to negotiated government to government agreements. If a foreign fishing vessel wishes to apply to fish in the Australian EEZ, they must apply for a foreign fishing licence from AFMA and provide any information that AFMA requires for proper consideration of the application.

21. AFMA has discretion when considering foreign fishing licence applications and takes into account previous IUU fishing offences by vessels and crew, the history of the flag State and its control over its vessels in terms of ensuring that vessels are fishing to appropriate standards, the 'genuine link' between the vessel and the flag State, the level of fishing and any benefits of the activity for Australia. If a licence is approved the holder must comply with any obligations, including relevant management plans of fisheries, imposed by AFMA for the fishery to which the licence applies.

Responsibilities of foreign vessels when entering Australian EEZ

22. There are minimum terms and conditions that apply to a holder of a foreign fishing licence, these include a requirement to mark their vessels in accordance with the FAO standard specifications, carry observers if requested, complete catch and effort logs and operate a VMS which reports to AFMA, port

calls for inspection and notification of departing and entering the Australian EEZ the payment of a fee or levy. The vessel master must also hold a current foreign master fishing licence, and the ship must meet any requirements specified in the fishing licence.

23. The *Foreign Fishing Licences Levy Act, 1991* outlines provisions for the payment of a levy by a person seeking a foreign fishing licence to fish in the Australian EEZ. Where there is an agreement in force that contains a provision stating that licences shall be granted, a levy will not apply. The amount of the levy imposed on the grant of a licence is the amount prescribed by the FMA regulations or as is calculated in accordance with the regulations.

24. To obtain a foreign master fishing licence an application must be made to AFMA. The application should include such information as is reasonably required for proper consideration (similar process to obtaining a foreign fishing licence). The holder of the foreign fishing master licence must comply with any obligations imposed by AFMA as outlined in relevant plans of management and other specifications of the licence. A foreign master fishing licence must be held by the person in charge of a foreign ship that is being used for commercial fishing in a specified managed fishery under a foreign fishing licence.

Responsibilities conferred on national vessels

25. Most of the responsibilities that AFMA requires of FFVs are consistent with those of Australian ships that fish within the Australian EEZ, however some are obviously unnecessary such as the notification of entering and exiting the Australian EEZ (although this does apply for Australian vessels that access fishing grounds beyond the AFZ). Also, Australian ships are not required to participate in routine port calls for inspection although, they may be requested to return to port for an inspection if a fisheries officer believes that the vessel may have acted in contravention of the concession or licence held by the vessel.

26. As stated previously, it is believed that most of Australia's fish resources are either fully exploited or there is sufficient capacity within domestic fishing operations for the resources to be fully utilised. As such, the maximum numbers of concessions or statutory fishing rights are in circulation to fishers. As the body responsible for management of the fisheries AFMA cannot allow the number of ships that access the fishery to increase by granting further concessions, hence for a fisher to obtain access rights through a concession they must purchase existing concessions from current holders. Prices paid for fishing concessions are a commercial matter. Applications to approve the transfer of concessions must be submitted to AFMA for consideration, an application fee of AUD 300 applies.

27. The costs of managing a fishery are shared between the government and the operators who hold an entitlement for the fishery, according to the level of benefit attributed. They include costs for Management Advisory Committees, logbooks, registers, monitoring programs, compliance, AFMA overheads and research. The contribution is collected as a management levy each financial year. Similarly to the *Foreign Fishing Licences Levy Act 1991* there is also a *Fishing Levy Act 1991*, which outlines provisions for the payment of levies for domestic fishers wishing to access a managed fishery. The amount of the annual levy varies between fisheries depending on the costs of management.

28. Levies for species in the Southern and Eastern Scalefish and shark fisheries are collected based on the number of permanent quota units (number of kilograms) that an operator holds. The number of kilograms an operator holds is directly related to permanent quota units and the proportion of levy each operator pays is not affected by this change.

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National legal measures against IUU fishing activities by foreign vessels and fishers

29. There are a variety of legal measures against IUU fishing activities by foreign vessels and fishers that range from financial penalties, forfeiture of vessels, revoking of concession and imprisonment for repeat offenders.

Treatment of permit versus non-permit holders

30. According to the FMA, any fishing offence either by a permit or non-permit holder is dealt with as a foreign or domestic fishing offence, therefore the same penalties apply for permit and non permit holders following a conviction of an offence.

Penalties for non-complying foreign vessels

31. Under the FMA it is an offence to use foreign ships for fishing in the AFZ without appropriate authorisation. Offenders (vessel master and crew) are prosecuted under domestic legislation in Australian courts. The maximum penalty for a foreign fishing offence in the AFZ under the FMA is currently 5 000 penalty units or AUD 550 000.

Examples involving IUU fishing activities by foreign vessels and national actions taken

32. Australia usually apprehends over a hundred foreign vessels for IUU fishing within the Australian fishing zone each year. IUU fishing in the Australian EEZ is of two distinct types: artisanal level illegal fishing, mainly targeting reef shark, trepang and trochus in northern Australia and industrial scale illegal fishing, targeting Patagonian toothfish in the Southern Ocean.

33. Illegal fishing in northern Australia generally results in fishers, once apprehended, being brought on their vessels to the nearest port in Fremantle or Darwin where investigations are conducted. Charges are usually laid against the master of the vessel and any repeat offenders with remaining crew members repatriated. If the vessel is bonded, crews sometimes stay in detention in Fremantle or Darwin until the vessel is released.

34. Eleven foreign fishing vessels have been apprehended inside the Australian Fishing Zone (AFZ), for illegal fishing between 1 January and 1 February 2004. This follows a record 138 illegal fishing vessel apprehensions in 2003.

35. The Australian Government has to date secured three convictions against fishing vessel masters for taking dolphin, which is a protected species under the *Environmental Protection and Biodiversity Conservation Act, 1999* (EPBC Act). In the first case, on 20 January 2003, a master was sentenced to two months jail for this offence, and a further three months jail for failing to pay fines for fishing offences. The vessel was originally apprehended on 28 November 2002.

36. The master of a vessel apprehended on 7 February 2003 was also convicted and jailed for two months for the EPBC Act offence of killing a dolphin while in the Australian Whale Sanctuary. On 14 May, a skipper was jailed for one month for taking dolphin, and a further eight months for defaulting on payment of fines for fishing offences.

Recent examples of apprehensions in the Southern Ocean:

Viarsa 1 Case

37. A Uruguayan flagged longline fishing vessel, the *Viarsa 1*, was sighted allegedly fishing illegally inside the Australian Exclusive Economic Zone around Heard Island and McDonald Islands on 7 August 2003, at which time an Australian patrol vessel initiated hot pursuit. After a 21 day, 3,900 nautical mile chase – the longest in Australia’s maritime history – through some of the most inhospitable sea and weather conditions, Australian Customs and Fisheries officers boarded the *Viarsa 1*. The boarding was supported by armed South African enforcement officers and occurred on Thursday 28 August 2003. The South African ocean-going tug *John Ross* and the United Kingdom fisheries patrol vessel *Dorada* provided support at the apprehension scene, over 2,000 nautical miles (3,900 km) from Cape Town in the South Atlantic.

38. Australia has formally seized the vessel, its catch and equipment under the FMA. The owners have indicated their intention to challenge the seizure. AFMA’s investigations resulted in charges being laid against the captain and master of the vessel and three other crewmembers. The crewmembers that were not charged have been repatriated. The five charged crewmembers have been released on bail and remain in Australia until trial. AFMA is negotiating with the owners of the *Viarsa 1* regarding the bond for the vessel.

The Lena and Volga Cases

39. In February 2002, the *HMAS Canberra* apprehended the Russian-flagged vessels the *Volga* and *Lena* for allegedly illegally fishing in the AFZ around HIMI. The *Lena*, its catch and gear, were forfeited to the Commonwealth and the criminal prosecution of its master and two crewmembers concluded in favour of the Commonwealth. The *Lena* has been scuttled in Western Australia for use as a dive site. Australian authorities have detained the *Volga* until the bond is paid. The Russian Federation took Australia to the International Tribunal on the Law of the Sea (ITLOS) in December 2002 to challenge the bond set for the *Volga*. The outcome of the hearing was announced on 24 December 2002. ITLOS found that the bond should be set at the full value of the vessel, AUD 1.92 million and rejected Russia’s offer of AUD 500 000. The *Volga* is currently subject to further litigation.

40. The owners of the *Volga* are contesting its apprehension and subsequent forfeiture to the Commonwealth. On 8 July 2002, lawyers for the *Volga*’s owners filed in the Federal Court an amended statement of claim. The statement claims misfeasance on the part of AFMA in the apprehending of the ship and the vessel owners are now seeking to sue the Commonwealth for unlawfully apprehending the *Volga*. The Federal Court dismissed an application by the owners of the *Volga* to have the hearing postponed until after the criminal trial. The owners have now raised another procedural point saying that the legislation is invalid in providing for forfeiture of the vessel without a criminal conviction and are seeking a separate preliminary hearing on this point. The Federal Court hearing occurred between 8 and 12 September 2003 and the judge is yet to make a ruling.

c) Registration of fishing vessels*Requirements of fishing vessel registration*

41. The SRA states that every Australian owned ship shall be registered under the SRA, however exemptions from compulsory registration are provided for, which include Australian owned fishing vessels. There are safeguards and benefits available for registered vessels, even if exempt from registration under the SRA. Such benefits include “good title” and ownership confirmation.

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42. To register a vessel an application for registration and application fee is required to be submitted to AMSA⁶. An application should include, among other things, a declaration of ownership and nationality, evidence of ownership, demise charter party (if applicable), call sign licence, tonnage measurement and the vessel must clearly meet marking requirements.

43. It is an offence of strict liability, under the SRA, for an unregistered ship to depart from an Australian port to “a place outside Australia”, meaning a place beyond the outer limits of Australia’s territorial sea. Therefore all Australian-owned fishing vessels *must* be registered in order to fish beyond the territorial sea. These fishing vessels have Australian nationality and are entitled to fly an Australian flag. Accordingly, they are also Australian-flagged ships as defined by the FMA and are subject to comply with the FMA and any related legislation and regulations that operate to ensure Australian-flagged fishing vessels do not engage in or support IUU fishing.

44. The FMA defines fishing to include a broad range of fishing-related activities, including any operations at sea directly in support of, or in preparation for, any other activity described in that definition. The SRA, however, defines fishing vessel more narrowly, so that Australian-owned support vessels are not exempt from compulsory registration.

45. The Registrar cannot register a ship under the SRA if it is registered under the law of a foreign country. Where, a ship that has at any time been registered under the law of a foreign country and an application is made for the registration of the ship under the SRA, the application must be accompanied by evidence that establishes that the ship is no longer registered under the law of that country or that steps have been taken, to close the registration of the ship under the law of that country.

46. AFMA has discretion when providing a high seas fishing licence in that it may stipulate that any Australian vessel wishing to leave the Australian EEZ must be Australian flagged and registered under the SRA. Minimum terms and conditions also apply to an Australian ship fishing outside the AFZ, these are outlined above under Legal measures and regulations.

Restrictions on vessels engaged in IUU fishing

47. Where AFMA has discretion when considering a ship licence application or concession transfer of statutory fishing rights, one of the factors considered is the ship’s history of compliance and IUU fishing. If identified to have a history of IUU fishing AFMA will not approve the application.

Rules regarding fishing vessel genuine link (ship owner/ship operator to your country of registry)

48. The SRA outlines provisions for registering a vessel to Australia, it is the first step in a series of that a fishing vessel must complete only allow a strong ‘genuine link’ between the ship operator to Australia. The following ships can be registered, Australian owned ships, small craft wholly owned or operated by residents of Australia and Australian nationals, ships on demise charter to Australian-based operators.

49. Secondly, only an Australian owned ship is authorised to fish under a fishing permit or statutory fishing right granted by AFMA. AFMA defines an Australian ship if it satisfies one of the three following conditions:

⁶ Further information on the Australian Maritime Safety Authority can be located at their website (www.amsa.gov.au).

- the ship is operated from Australia and is wholly owned by an Australian resident or company and was built in Australia; or
- the ship is listed on the Australian Shipping Register, except if it is owned by a foreign resident and under a demise charter arrangement; or
- the ship has been declared by AFMA to be an Australian ship under FMA conditions (further requirements relating to the genuine link).

50. A foreign ship may be registered under a demise charter under the SRA, if two or more persons who include an Australian national in a position to control the exercise of the rights and powers of the charterers are included in the chartering company.

51. The FMA, allows a ship on a demise charter to be declared by an Australian ship. AFMA may declare that, during a certain period, the ship is taken to be an Australian ship for the purpose of the Act following consideration of the application. Factors taken into consideration include IUU history of Master and crew, export and import of catch and be satisfied that the extent of participation of citizens or residents of Australia, either directly or indirectly (either through holding shares or otherwise), in the control of the operations of the ship in the Australian EEZ, during that period, and the nature of those operations.

52. If an Australian flagged ship under the FMA, wished to obtain a flag from another country, Australia has no process in place to prevent flag hopping, Australia believes that it is the responsibility of the flag State to ensure that vessels are legitimate and that all international obligations are fulfilled.

2. Economic Measures

a) Investment rules

53. For a foreign entity wishing to buy into an Australian fishing company an application is not required to be made to the foreign investment review board (FIRB) unless the sale is greater than AUD 50 million. Any sales greater than this value require the submission of an application to the FIRB that includes a detailed description of the sale.

54. AFMA does not impose restrictions on a foreign person or company holding an Australian fishing permit. The critical link is the ship, as only an Australian ship can be nominated to a fishing permit or a statutory fishing right. The FMA definition of an Australian ship can be found in paragraph 1.36.

b) Trade rules

55. Australia is a signatory State to a number of RFMOs, including CCAMLR, IOTC, WCPFC, and CCSBT. A number of these Commissions have implemented regulations, quotas and trade certification schemes in an attempt to prevent IUU fishing. As a signatory to these Conventions, Australia implements these trade regulation regimes.

56. Australia adopted the CCAMLR catch documentation scheme (CDS) following increased concern over the level of IUU fishing for Patagonian toothfish. The key element of the CDS is that the scheme applies within and beyond the CCAMLR Convention Area. It requires CCAMLR members to ensure that their vessels and authorities complete and verify documentation for landing and transshipment of all toothfish catches.

57. Australia implements the CCSBT trade information scheme (TIS), which commenced 1 June 2000. The aim of the scheme is to collect more accurate and comprehensive data on southern bluefin tuna

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(SBT) fishing through monitoring trade. The TIS also deters illegal fishing by effectively denying access to markets for illegally caught SBT (with or without false documentation). Implementation of the TIS revolves around all members of the CCSBT requiring all imports of SBT to be accompanied by a completed CCSBT Statistical Document. The Document must be endorsed by an authorised competent authority in the exporting country and includes extensive details of the shipment such as name of fishing vessel, gear type, area of catch, dates, etc. Shipments not accompanied by this form must be denied entry by the member country. Completed forms are lodged with the CCSBT Secretariat and used to maintain a database for monitoring catches and trade and supporting scientific assessment.

58. Similarly the IOTC requires that any big eye tuna imported by a party to the convention into the territory of a contracting party to be accompanied by an IOTC statistical document.

c) ***Rules regarding landing, transshipments and marketing.***

To obtain access to an Australian port a FFV is required to obtain a port permit from AFMA. In general, FFV port permits are only issued when the Minister gives a written exemption to allow the landing or transshipment of fish. This is predominantly due to threats to Australia's bio-security.

59. An application for a port permit requires the provision of the following information: proposed port of entry, ship name and nationality, international radio call sign, registration number in country of origin and International Maritime Organisation number, descriptions of authorisations to fish, the name of the master of the ship, the person or contact point of the company or individual that owns the ship will be responsible for the conduct of the ship as the approval holder and a crew list.

60. While in the Australian EEZ, the foreign fishing vessel that holds the port permit is subject to conditions outlined in the permit, these include:

- the ship's net's, traps or other equipment used for searching for or taking fish are to be stowed and secured while the ship is in the Australian EEZ and in port;
- the ship must transit to and from port by the most direct route towards its proposed destination;
- the master or agent must provide AFMA with at least 24 hours notice of intention to enter the Australian EEZ and depart port;
- the master of the ship shall maintain the operation of the 'inmarsat C' VMS, reporting to AFMA at all times whilst in the Australian EEZ, unless transitional or other ad hoc communication arrangements have been approved by AFMA;
- the ship's freezer plans are to be made available to the inspecting Fisheries Officer on request;
- a copy of the ship's declaration of catch in total weight, and weight and number by species must be provided to AFMA;
- all fish and fish products are to be stowed and secured inside the ship; and
- no fish or fish product is to be unloaded for any purpose, including sale, own consumption, donation or gift, unless separate permission is obtained.

61. In considering applications for port permits, AFMA takes into account Australia's obligations under international law and assesses whether the ship, master and fishing company will abide by the terms and conditions of a port permit, this is based on their previous behaviour, such as compliance and IUU fishing history.

62. Australia is currently in the process of reviewing its port access and catch-landing regime. This involves updating its port access guidelines and revising our approach to catch landings and transshipments from FFVs.

d) Penalties, fees and restrictions to GFTs:

There is no differential penalty regime under the FMA for vessels according to nationality, however the FMA does contain separate regimes for foreign and domestic vessels.

The maximum penalty for a fishing offence by an Australian national under the FMA is 500 penalty units or AUD 55 000 (see above under Legal measures and regulations).

The maximum penalty for a foreign fishing offence in the Australian EEZ under the FMA is currently 5,000 penalty units or currently AUD 550 000 (see above under paragraph 31).

63. Australia has recently increased the maximum penalty for foreign fishing offences from 500 to 750 penalty units or from AUD 550 000 to AUD 825 000. To differentiate between the artisanal level illegal fishing in northern Australia and industrial scale illegal fishing in the Southern Ocean, a two-tier regime is proposed that would apply the increased penalty only to vessels 24 metres and above.

Fishing permit versus non-permit holders

64. AFMA may suspend or cancel a concession if there is a breach of a condition specified in the concession or if an operator is convicted of an offence under the FMA or a required levy is not paid.

65. Fees regarding a port permit are AUD 750 charged by AFMA for each successful application to visit an Australian port. The fee is charged for each visit that is requested in the application. In the event that an application is denied a refund of AUD 360 per visit will be provided to the applicant.

66. The *Foreign Fishing Licences Levy Act, 1991* outlines provisions for the payment of a levy to a person seeking a foreign fishing licence to fish in the Australian EEZ. Where there is an agreement in force that contains a provision stating that licences shall be granted, a levy will not apply. The amount of the levy imposed on the grant of a licence is the amount prescribed by the FMA regulations or as is calculated in accordance with the regulations.

3. Other Measures

67. The Coalition of Legal Toothfish Operators (COLTO), of which Australia's toothfish companies are members (Austral Fisheries, Everfresh Seafoods, HIMI Longline Management Pty Ltd, and Petuna Sealord), launched an international 'Wanted' campaign in Brussels on 7 May 2003. The Coalition is offering up to USD 100 000 for information leading to the conviction of illegal fishers. COLTO is comprised of industry members from several countries that have a direct commercial interest in the well being of Patagonian toothfish and the ecosystems that support them. Australia encourages its industry members to provide information on illegal fishing activity. This information is useful in the development of a clear picture of IUU fishing structures and a historical database of fishing vessels involved in IUU fishing.

68. Australia also uses media coverage to promote apprehensions of vessels suspected of IUU fishing to demonstrate Australia takes this issue seriously.

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Appendix A: List of Acronyms

Acronym	Definition
AFMA	Australian Fisheries Management Authority
CDS	CCAMLR catch documentation scheme
COLTO	Coalition of Legal Toothfish Operators
CCAMLR	Convention for the Conservation of Antarctic Marine Living Resources
WCPFC	Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific
CCSBT	Convention on the Conservation of Southern Bluefin Tuna
DAFF	Australian Government Department of Agriculture, Fisheries and Forestry
EPBC Act	Environmental Protection and Biodiversity Conservation Act, 1999
EEZ	Exclusive Economic Zone
FMA	Fisheries Management Act 1991
FAO	Food and Agriculture Organisation
FFV	Foreign fishing vessel
FIRB	foreign investment review board
IOTC	Agreement for the Establishment of the Indian Ocean Tuna Commission
IUU fishing	Illegal, unreported and unregistered fishing
MoU	Memorandum of Understanding
RFMO	Regional Fisheries Management Organisations
SBT	Southern Bluefin Tuna
SRA	Shipping Registration Act 1982
TSPZ	Torres Strait Protected Zone
TIS	trade information scheme
UNFSA	United Nations Fish Stocks Agreement
VMS	vessel monitoring system

BELGIUM**1. Legal framework****a) Fishing activities by national vessels**

1. The Belgian legal framework which is applicable to the fisheries outside the waters under national sovereignty and/or jurisdiction consists of “*Wet van 12 april 1957 waarbij de Koning wordt gemachtigd maatregelen voor te schrijven ter bescherming van de biologische hulpbronnen van de zee, zoals gewijzigd – Loi du 12 avril 1957 autorisant le Roi à prescrire des mesures en vue de la conservation des ressources biologiques de la mer, tel que modifié*”, which gives the power to the King to take the necessary measures for the conservation of biological resources in the high seas, the EEZ and the territorial sea.

2. The vessels of the Belgian fishing fleet have a fishing licence in application to the relevant regulations of the Community law. Licensing formalities are described in “*Koninklijk besluit van 21 juni 1994 tot het instellen van een visvergunning en houdende tijdelijke maatregelen voor de uitvoering van de communautaire regeling voor de instandhouding en het beheer van de visbestanden – Arrêté royal du 21 juin 1994 instituant une licence de pêche et portant des mesures temporaires pour l’exécution du régime communautaire de conservation et de gestion des ressources de pêche*”.

3. To our knowledge no Belgian fishing vessels are involved in fisheries outside the community waters, with the exception of some fisheries inside the Norwegian EEZ.

b) Fishing activities by foreign vessels within EEZ

4. The Belgian EEZ lies completely inside the community waters. Fishing vessels (national, EU and non-EU vessels have to comply with Community regulations).

5. There are no bilateral agreements with third countries covering fishing activities inside waters under Belgian national sovereignty and/or jurisdiction.

6. All masters of fishing vessels are subject to a logbook registration, V.M.S and pre-notification of catches when landing in a foreign port.

7. Concerning penalties there are no different treatments foreseen by law, with the exception of the mooring of vessels in order to start procedure. Penalties concerning infringements are foreseen in above mentioned law, i.e. €1 500 to €100 000, confiscation of catch, gear and vessel.

c) Registration of fishing vessels

8. All vessels have to be registered by competent authorities of Ministry of Transportation. Fishing vessels have to submit a “zeebrief” (registration document in Belgian register) and a “meetbrief” (document stating characteristics of the vessel, *inter alia* tonnage and engine power).

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9. The Belgian legislation foresees specific provision concerning the economic link. (cfr. art. 15 of the above-mentioned royal decree). If the economic link is not proven by owner the fishing licence can be withdrawn. There is no governmental permission needed for reflagging of national flagged fishing vessels.

2. Economic measures

a) Investment rules

10. The Community legislation is applicable.

11. Regional investment rules (seafisheries is of regional competence of the Flemish region) are described in “*Decreet van 13 mei 1997 houdende oprichting van een Financieringsinstrument voor de Vlaamse visserij- en aquicultuursector*” and in a number of decrees of the Flemish government.

b) Trade rules

12. The Community legislation is applicable.

3. Other measures

13. There are no other measures.

CANADA

Forthcoming.

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DENMARK

Additional information can be found in the document submitted by the European Union.

Economic measures***a) Investment rules****Fishing vessel ownership, including inward and outward investment rules*

1. With respect to inward investment, fishing vessel ownership in Denmark is subject to rules concerning establishment as a commercial fisherman in Denmark. The rules are laid down in the Law on Saltwater Fishery (LBK 803 of 11/11/98), according to which the fisherman (vessel owner):

- must be of Danish nationality or have lived in Denmark for a continuous period of two years, and
- has been employed as a commercial fisherman for the previous 12 months, and
- has earned at least 3/5 of personal income in the previous 12 months from commercial fishery.

2. In addition, according to a Government Order on the right of establishment and the free movement of labour to carry out commercial fishery (nr. 266 of 1966), it must be documented that the activity has a link to the Danish fishing industry, for example by:

- having a permanent place of business in Denmark from where the fishery is planned and run,
- at least 50% of the landing value within a calendar year of overall landings is landed in Danish ports.

3. With respect to chartering, foreign vessels cannot be chartered in to fish on Danish quotas. According to Danish fisheries law Danish fishing vessels must have a Danish flag.

4. There are no specific rules with respect to outward investment. Whether Danish citizens can buy into foreign vessels depends on the legislation of the flag state.

FRANCE

1. The measures taken to combat illegal fishing activities in the European Community EEZ were developed by the European Commission. The French authorities also face this problem in the EEZ of the French Southern and Antarctic Territories (FSAT), which do not come under EU jurisdiction.

2. Illegal fishing in FSAT waters targets two stocks: lobster in Saint Paul and Amsterdam, where there is a latent poaching problem, and toothfish with the advent of widespread illegal fishing in the Crozet EEZ and then in the Kerguelen EEZ in 1996. This report addresses the second of these, and lists the **regulatory and economic measures introduced by the French authorities.**

1. Vessels in the EEZ of the French Southern and Antarctic Territories

3. There are currently no bilateral fishery agreements covering the French Southern and Antarctic Territories (FSAT). Consequently, only vessels flying the French flag are authorised to fish there, subject to licence.

4. The harvesting of fishery resources in the French Southern Territories is regulated at two levels, i.e. nationally and internationally.

5. National and territorial regulations are based on Act No. 66-400 of 18 June 1966 on sea fishing and the harvesting of marine products, and Decree No. 96-252 of 27 March 1996, implemented by territorial orders. These instruments lay down the rules governing resource management, in particular the setting of TACs, their allocation to fishing firms, and the technical requirements applying to fisheries. These national and territorial regulations also reflect the rules of international law.

6. For instance France, as a member of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), implements the controls required by that organisation.

2. Example of Measures against Illegal Fishing Practices

7. 8. The illegal harvesting of toothfish is a problem in the EEZs of France (Kerguelen and Crozet Islands), Australia (Heard and MacDonald Islands) and South Africa (Marion and Prince Edward Islands). The culprits are long-liners flying the flags of countries which are either members or non members of the CCAMLR. Some 30 vessels have been identified as participating in these illegal fishing activities. The firms involved always use foreign subsidiaries or front companies, which shows just how organised the illegal fishing networks are. Up to now, illegal catches were taken to ports close to fishing zones and paying little attention to the origin of the products. These products are either accompanied by falsified CCAMLR documents or misnamed. Currently, as a result of the recent improvements on control made by these countries, pirates are using more and more transshipment at sea and then send toothfish to distant ports, mainly located in Asia. Such a technique makes controls very difficult.

9. To combat illegal fishing, France has implemented three measures (paragraphs 2.1, 2.2 and 2.3):

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2.1 Enforcement measures

10. Act No. 66-400 of 18 June 1966 on sea fishing and the harvesting of marine products in the French Southern and Antarctic Territories, as amended and strengthened by the Outline Act on sea fisheries and marine aquaculture of 18 November 1997, specifies for instance that:

“Section 2: No one shall fish for or hunt marine animals or harvest marine products, either on land or from vessels, without obtaining a licence.

[...] Any fishing vessel [...] entering the Economic Zone of the French Southern and Antarctic Territories shall notify the authorities of its entry and declare the tonnage of fish held on board.”

“Section 4: A fine of EUR 150 000 and 6 months’ imprisonment, or one of these two penalties, shall be imposed on anyone who fishes without the prior authorisation required under Section 2 or who has failed to notify the authorities of his entry into the economic zone or failed to declare the tonnage of fish held on board.”

There is an equivalent penalty for fishing in a closed area or during a closed season. The fine of EUR 150 000 increases by EUR 75 000 for every tonne fished over 2 tonnes. The offence of receiving illegally fished products is subject to the same penalties.

Sections 5 and 6: A fine ranging from EUR 7 500 to EUR 22 500 and imprisonment ranging from 10 days to 3 months, or one of these two penalties, shall be imposed on anyone holding aboard a fishing vessel, without permission, explosive substances or substances/bait liable to destroy animal species. The penalties shall be a fine ranging from EUR 7 500 to EUR 22 500 and imprisonment ranging from 6 months to 18 months if such substances or bait are actually used.

Section 7: A fine ranging from EUR 7 500 to EUR 22 500 and imprisonment ranging from 10 days to 3 months shall be imposed on anyone who has knowingly received, shipped, marketed or sold illegally fished products.

Section 9: Anyone who commits both an offence under Section 4 and one of the offences under Sections 5 to 8 may be subject to a fine of EUR 150 000 for each of the offences under Sections 5 to 8.

11. Ongoing improvements to procedures have also led to the confiscation of numerous vessels and fishery products, and to the imposition of fines by the French courts (see list below).

2.2 Tighter controls

12. The current surveillance arrangements, based on the presence of the French navy, have led to the interception and rerouting of over 20 vessels caught in the area. The latest was the “Lince”, an illegal trawler from the Seychelles, rerouted to Reunion Island in January 2003. The vessel was confiscated by court order and will be used for enforcement purposes.

13. However, owing to the size of the areas under surveillance, the harsh weather conditions and the limits on what the Navy is able to do, the operational, regulatory and diplomatic arrangements have had to be tightened. The following changes have been introduced:

2.3 Introduction of satellite monitoring

14. A dual surveillance system operates in FSAT waters, comprising an active system (VMS : vessel monitoring system) using an on-board satellite transmitter (e.g. Inmarsat, Emsat or Argos) for the real-time monitoring of French vessels engaged in regular fishing activities, plus a passive system (“Radarsat”) providing radar images of the echoes emitted by every vessel in the area.

2.4 Co-operation agreement with Australia

15. Toothfish is fished illegally in both the French EEZs (Kerguelen/Crozet Islands) and the Australian EEZs (Heard/MacDonald Islands). This shared problem has prompted the French and Australian authorities to draw up a co-operation agreement to police the fisheries.

3. Economic Measures

Trade (or related) measures: use of a documentation/certification scheme

16. Documentation/certification systems are becoming a vital tool in fishery management regimes, and most regional fishery organisations are planning to introduce them. In 1999 the CCAMLR adopted a catch documentation scheme for *Dissostichus spp.* The scheme makes it compulsory to monitor international trade in toothfish and determine the origin of any species imported to, or exported from, CCAMLR Member countries. The scheme also makes it possible to determine whether toothfish has been fished in the zone covered by the Convention, in line with the conservation measures laid down by the CCAMLR, and to gather the catch data required to facilitate scientific stock assessment. It covers all toothfish catches, both inside and outside the area covered by the Convention. France implements this documentation/certification scheme.

17. Within the framework of ICCAT, French imports and exports of southern bluefin tuna must also be accompanied by the necessary statistical document or importer/exporter certification.

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Table 1. Sanctions imposed by French courts in cases of illegal fishing in FSAT waters

<u>Number</u>	<u>Year of offence</u>	<u>Place of offence (E.E.Z.):</u>	<u>Name of offending vessel</u> (year of construction)	<u>Flag</u>	<u>Fishing firm</u>	<u>Nationality of captain</u>
1	1997	CROZET	BELGIE 111 L: 52.40m (1986)	BELIZE	LUBMAIN SINGAPORE PTE LTD	TAIWAN
2	1997	CROZET	MAR LARGO L: 32.60 m (1991)	PORTUGAL	GOMES ect	PORTUGAL
3	1997	KERGUELEN	KINSHO MARU L: 48.20 m (1991)	ARGENTINA	COMPANA PESQUERA ARGENTINA SA	ARGENTINA
4	1997	KERGUELEN	ARBUMASA XXV L: 58.71 m (1979)	BELIZE	Banco Aliado (Panama)	SPAIN
5	1997	KERGUELEN	MAGALLANES L: 52.80 m (1970)	ARGENTINA	ARGENOVA SA (subsidiary of PESCANO VA) LERMITAR (Mauritius)	SPAIN
6	1998	KERGUELEN	PRAIA DO RESTELLO L: 61.00 (1958)	PORTUGAL	ALUSHIP (Capetown) (link with PESCALONGA in Portugal)	PORTUGAL
7	1998	KERGUELEN	MAR DELSUR DOS L: 52.91 m (1966)	BELIZE	TRADE WINDS COMMERCIAL CORP (Panama)	SPAIN
8	1998	KERGUELEN	EXPLORER (formerly "KRILL") L: 49.96 m (1942)	PANAMA	EUREX LIMITED (Liberia/Panama/ South Africa; previously JERSEY address): formerly ATLANTIC FISHING ENTERPRISES	DENMARK
9	1998	KERGUELEN	SUMA TUNA L: 43.63 m 298 GRT (1979)	BELIZE	Company: SATECO Manager: Jesus JUEZ Las Palmas, Canary Islands, SPAIN	SPAIN
10	1998	KERGUELEN	GOLDEN EAGLE L: 41 m (formerly "CELINE", formerly "BORDO-YARNES")	VANUATU	HOKOTA LIMITED (Hong Kong)	DENMARK
11	1998	KERGUELEN	ERCILLA L : 40 m (1987)	CHILE	PESQUERA DE LOS ANDES (Punta Arenas CHILE)	CHILE
12	1998	KERGUELEN	ANTONIO LORENZO L: 50 m 500 t (1960)	CHILE	PESQUERA CONCAR SA (Punta Arenas CHILE)	CHILE
13	1998	KERGUELEN	MAR DEL SUR DOS L: 52.91 m 730 GRT (1966)	BELIZE	TRADE WINDS COMMERCIAL LEADER	SPAIN
14	1997	KERGUELEN	VIEIRASA DOCE L : 46.2 m 369 GRT (1990)	ARGENTINA	VIEIRA ARGENTINA	UNKNOWN

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<u>Number</u>	<u>Year of offence</u>	<u>Place of offence (E.E.Z.) :</u>	<u>Name of offending vessel</u> (year of construction)	<u>Flag</u>	<u>Fishing firm</u>	<u>Nationality of captain</u>
14	1998	KERGUELEN	VIEIRASA DOCE L: 46.2 m 369 GRT (1990)	ARGENTINA	VIEIRA ARGENTINA	ARGENTINA
15	1998	KERGUELEN	MAR DEL SUR UNO L: 48 m 690 GRT (1970)	CHILE	PESQUERA MAR DEL SUR SA Punta Arenas in Chile	CHILE
16	1999	CROZET	CAMOUCO L: 48.01 m 571 GT (1986)	PANAMA	MERCE PESCA Panama (subsidiary of Merce Pesca Esp)	SPAIN
17	2000	KERGUELEN	MONTE CONFURCO L: 51 m (1985)	SEYCHELLES	Monteco Shipping Corporation (Seychelles)	SPAIN
18	2000	KERGUELEN	VEDRA	SAO TOME and PRINCIPE	Inversiones Pesqueras (Belize)	SPAIN
19	2000	KERGUELEN	GRAND PRINCE L 32.67 m	BELIZE	José NOGUERA PAIK COMMERCIAL CORPORATION (Belize)	SPAIN
20	2001	KERGUELEN	CASTOR L 57.23 m (1970)	Saint Vincent and Grenadines	Consignataria Beira Mar (Sp)	SPAIN
21	2002	KERGUELEN	ETERNAL L 48 metres (1986)	Dutch Antilles	Merce Pesca SA (Panama) Chartered by Global Longliners (Dutch Antilles)	URUGUAY (navigation captain) SPAIN (fishing captain)
22	2003	KERGUELEN	LINCE L 53 metres (1988) modernised in 1998	SEYCHELLES	Arcosmar Fisheries Corporation Panama	CHILE (navigation captain) SPAIN (fishing captain)

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GERMANY**1. Legal measures and regulations****a) *Fishing activities by national vessels***

1. To engage in fishing activities in waters of third countries or for stocks under management in international waters, German fishing vessels need a fishing licence. For stocks under management in international waters, there is an obligation to respect the individual quotas as well as relevant technical rules which are part of the permit. When fishing in third countries' waters (i.e. outside the EU) the obligation to respect relevant legislation of the third country in which waters the fishing takes place is part of the permit. Fishing in violation of the terms of such a permit is an infringement and subject to a fine of up to € 75 000 and to the possible withdrawal of the licence depending on the gravity of the case in question.

2. All vessels engaging in fisheries in third countries' waters or on the high sea are obliged to have VMS on board and to maintain a fishery logbook. Entries in the logbook are regularly cross-checked with VMS data. If there is any reason to doubt the correctness of the data in the logbook, observers are placed on board the vessel in question.

b) *Fishing activities by foreign vessels within EEZ*

3. Germany is a Member state of the EU. Access to the German EEZ is negotiated by EU Commission on her behalf, as for all EU Member states. Agreements giving access to the German EEZ exist with Norway, the Faeroe Islands, Lithuania, Latvia and Estonia. These agreements are based on reciprocal access arrangements.

4. According to EU legislation, foreign vessels are subject to a permit and a prior notification of landings in EU ports. A similar requirement exists for the German fishery in the Baltic Sea and for the cod fishery in the North Sea. Foreign vessels also have to be equipped with VMS, the data of which are communicated via the Fisheries Monitoring Centre of the Flag State. German vessels larger than 24 m (as from 2004: 18 m, as from 2005: 15 m) must also be equipped with such a device in line with the relevant EC legislation.

5. Foreign vessels fishing illegally in the German EEZ are likewise subject to a fine of up to € 75 000. The fact that a vessel does not hold a valid permit has as such a bearing on the amount of the fine imposed.

c) *Registration of fishing vessels*

6. EU Community law regulates the whole fishery sector, including the registry of fishing vessels, for all Member states.

7. The rules and requirements under which a fishing vessel under the flag of a Member state can be registered are the following:

- Regulation (EC) No. 2930/86 (definition of tonnage and motor performance);
- Regulation (EC) No. 3259/94 (regulation amending regulation (EC) No. 2930/86);
- Regulation (EC) No. 3690/93 (fishing licences);
- Regulation (EC) No. 2090/98 (fishing vessel registry of the Community and nationally);
- Regulation (EC) No. 839/2002 (regulation amending regulation (EC) No. 2090/98);
- Regulation (EC) No. 2371/2002 (basic fisheries regulation);
- Regulation (EC) No. 2792/1999 (regulation on fisheries structures).

8. There are generally no restrictions for investments in the German fishery sector. However, to run a fishing vessel somebody from outside the European Union would need to set up a company or at least a registered office in Germany. Somebody from another Member state of the European Union needs to have a contact person in Germany. By this requirement a genuine link between the vessel and the flag state is assured. Furthermore a genuine link is established by the fact that a vessel needs a national licence to fish and a quota for regulated species inside and outside EC waters and is subject to fisheries control mechanisms like VMS. A fishing vessel having left the Community fishery for good is not allowed to be registered again under the flag of an EU Member state unless a fishing vessel with at least the same tonnage and motor performance leaves the fleet of the Member state in question. The same holds true for new vessels entering the German fishery. This prevents the German flag being chosen for flag hopping purposes. Given the rigorous conditions by which a vessel can enter the German fishery, there is no governmental permission needed for reflagging of national flagged fishing vessels to other countries. There are no concrete restrictions preventing a fishing vessel with an IUU background to enter the German fishery if the other conditions are met.

2. Economic measures

a) Investment rules

9. Nobody is prevented from investing in the German fishery. However, when somebody wants to run a fishing vessel on his own, he needs at least a registered office (for non-EU citizens) or a contact person (for EU citizens). For entering a new fishing vessel at least an equivalent capacity must leave the German fleet.

10. There are no restrictions for Germans to invest in the fishery sector of foreign countries. Mention should be made, though, that Article 23 paragraph 2 and Article 24 paragraph 1 of Regulation (EC) No. 2371/2002 (new EU basic fisheries regulation) provide that EC Member states are obliged to control fishing activities of their nationals outside Community waters. This would include the combat of IUU activities of EU nationals.

b) Trade rules (including trade-related rules)

11. The EU determines trade rules for its members. For the time being there are no precise trade rules prohibiting the trade in fish and fish products of IUU origin with the exception of imports and exports of Patagonian toothfish (*dissostichus spp.*) and red tuna. Imports and exports of this species must be accompanied by a catch documentation or a statistical document. Without such a certificate the import and export are prohibited.

c) Rules regarding landing, transshipments and marketing

12. The landing of foreign vessels in German ports is regulated by Community law. There are prohibitions of landings and transshipments in force for illegal catches by non-contracting vessels from the areas of the NAFO (Northwest Atlantic Fisheries Organisation) and the NEAFC (Northeast Atlantic

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Fisheries Commission) and for illegal catches of Patagonian toothfish from the area of the Commission of the Conservation of Antarctic Marine Living Resources (CCAMLR). These EU-wide prohibitions were introduced in order to implement relevant decisions by these organisations. The marketing of these products is likewise prohibited.

c) Penalties, fees and restrictions to GFTs

13. There is a difference in penalties for IUU fishery between national and foreign vessels insofar as a possible sanction for national vessels can include the withdrawal of the fish licence. A vessel's holding or not of a licence when engaging in IUU fishing activity has a bearing on the magnitude of the penalty. For the remainder of a sanction, there is no differential penalty treatment according to the nationality of the offender.

14. Germany does not apply any fees on foreign vessels' activities in her EEZ.

15. The German fishing fleet is constantly under surveillance. Past IUU activities as well as the likelihood of a future engagement in IUU activities would have a bearing on the approval of an application for a financial transfer.

3. Other measures (including moral/ethical)

16. In regular meetings of the Ministry with representatives of the fishing industry pressure would be put on the industry if it should turn out that German interests are involved in any form of IUU fishing besides the imposition of fines and withdrawal of licences in cases of any concrete involvement in any such activities.

GREECE**1. Legal measures and regulations*****Fishing activities by national and foreign vessels***

1. The Greek legislation gives the right of imposition, on behalf of the port authority, of administrative penalties to Greek vessels, which are not in possession of the appropriate fishing licence for open sea, as required by national legislation. Fishing activities inside the exclusive area of a foreign country can take place only with the agreement of this country. The measures that are taken against the offenders, consist of two categories:

1. Administrative penalties (fine and confiscation of fishing licences of the fishing vessel and fishermen, for a specific time period)
2. Criminal penalties, which are imposed by the court, for use of specific fishing methods, e.g. fishing with the use of chemicals and explosive materials, illegal fishing in waters used for aquaculture or illegal fishing of corals, that anticipates punishment.

2. In the case that the offender has committed an offence on the fishing regulation for a second time in a period of less than two years after his administrative penalties, the penalty is doubled.

3. The same penalties are imposed when fishing activities take place from vessels holding foreign flags inside territorial waters, without the licences required by the Greek legislation.

4. Community and national legislation requires that fishing vessels above 15 m of total length, which are fishing inside and outside territorial waters, are equipped with a system of satellite observation (VMS), in order to get monitored 24 hours per day, from the Fisheries Monitoring Center of the member country. The system is expected to be implemented gradually until 1-10-2005. In addition, the fishing activity is monitored through the fishing logbook, in which the captain is obliged to record the species and quantities caught by the vessel. The logbook is consequently submitted to the appropriate authorities of the flag country. In the Fisheries Monitoring Center databases concerning all of the fishing fleet are kept, particularly data on fishing vessels, ownership regime, fish catch and security certificates.

5. So far Greece has not determined an Exclusive Economical Zone. In the future, according to an EU regulation draft, fishing vessels provided with the necessary fishing licences for fishing inside territorial waters should also be equipped with satellite recording position equipment. Besides, the General Port Regulation requires that vessels intending to use Greek harbors, in order to get fuel or landings, should inform the authorities at least 24 hours before arrival.

Registration of fishing vessels

6. The Greek registration regime is common for all kinds of vessels eligible to fly the Greek flag. Thus, vessels eligible for registration under the Greek flag shall be at least 50% and owned by Greek, EU, or EEA natural or legal persons. In addition, the ship owning EU or EEA entity is required to have a form of establishment in Greece according to art 43 of the EEC treaty (Presidential Decree no 11 of January

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2000). Moreover a fishing licence must have been previously authorized by the Hellenic Ministry of Agriculture.

7. In case that a ship is going to be taken off the Greek registry due to its sale to foreigners and before the eradication takes place, the interested party must ask for the issue of an approval by the Ministry of Mercantile Marine with regard to the ship's eradication.

8. Subject to the above condition (in case of eradication) a ship can register or be eradicated from the Greek registry according to the will of the legitimate owner.

2. Economic measures

Investment rules

9. Non-EU ownership of Greek flag vessels, including fishing vessels, is limited to 49%.

10. Companies that seek to invest in Greek vessels need prior authorization by competent national authorities.

11. Fishing activity in Greek territorial waters is possible only for vessels holding the Greek flag, owned by Greek or EU subjects (+50% ownership) and provided with fishing licence by the relevant Greek authorities

12. According to the Greek national legislation, fishing by third countries' nationals is possible only in a framework of reciprocity.

Trade rules (including trade-related rules)

13. Concerning trade measures, community as well as national legislation imposes bans on the trade of specific species on certain time periods throughout the year, as happens for example for swordfish.

14. At the same time, planning has been completed and a system of Control Checks is expected to be fully applied shortly. The specialized control teams consist of officers of the Prefectures and are expected to hold extensive regular and on the spot checks of fisheries products up to the point of the first sale. With these checks the legitimacy of fishery products concerning their origin, size, landing documentation, logbooks etc. can be determined. In case of infringement, a system of administrative penalties is in operation.

15. According to regulation Reg (EC) 2847/93 of the Council, as amended, a system of technical monitoring system for application, monitoring and inspection of fisheries products is directly applied. This system requires the cooperation of all responsible bodies: MCN, Port Authorities, Landing Auctions, ETANAL (Authority responsible for the supervision of Landing Auctions), General Directory for Fisheries of the Ministry of Agriculture and Prefectures. Hence, a cross-checking of the data that are imported to the system will be possible.

Rules regarding landing, transshipments and marketing

16. Fishing vessels holding foreign flags are required to land fisheries products exclusively into designated (10) import ports so that a better monitoring of imported landings is achieved.

Penalties, fees and restrictions to GFT s

17. There is a unified rate of penalties, concerning infringements of fishing legislation by national and foreign fishing vessels, depending on the offence and the extent of illegality.

18. Fees are applied on foreign fishing vessels activities only in the case that the vessel uses anchoring facilities.

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ICELAND**1. Legal measures and regulations*****a) Fishing activities by national vessels***

1. Fishing by Icelandic vessels outside Icelandic waters is governed by the "Act concerning fisheries outside Icelandic national jurisdiction" (no. 151, 1996). The law includes *inter alia* a provision that bans fishing within the jurisdiction of other states without permission from the competent authorities of the state in question. Based on this law, fishing by Icelandic vessels outside Icelandic waters is closely controlled using tools such as fishing permits, catch quotas, reporting obligations, vessel monitoring systems (VMS), obligations to undergo inspections and limits on what ports can be used for landing the catches.

2. Fishing by Icelandic vessels outside Icelandic waters is predominantly carried out either within the management area of a regional fisheries management organisation or in accordance with bilateral and trilateral agreements. The operations are therefore generally subject to management measures. This includes both special measures for individual fishing operations and general measures that apply to all operations in the relevant area. The "Act concerning fisheries outside Icelandic national jurisdiction" (no. 151, 1996) gives Icelandic authorities the right to make such regional rules legally binding for the fishing vessels and invoke penalties for non-compliance.

3. All Icelandic vessels that engage in fishing operations outside Icelandic waters are equipped with satellite-based VMS and report their catches regularly. Therefore, Icelandic authorities have at all times real-time information on the vessel's location, speed and heading in addition to recent information on the catches on board.

b) Fishing activities by foreign vessels within EEZ

4. Fishing activities by foreign vessels within Icelandic waters are governed by the "Act concerning fishing and processing by foreign vessels in Iceland's exclusive fishing zone" (Act No. 22, 1998). This law limits the right to engage in fishing operations within Icelandic waters to Icelandic vessels only, with the only exception being fishing pursuant to international agreements that Iceland has entered into. The "Act on fishing in Iceland's exclusive fishing zone" (Act No. 79, 1997) furthermore gives the Minister of Fisheries the authority to give foreign vessels temporary fishing permits regarding experimental fishing operations and scientific research.

5. Iceland has entered into agreements with a number of foreign states and the EU, which give foreign vessels the right to engage in fishing within Icelandic waters. In all cases, the operations are carefully monitored, including through catch reporting, VMS and inspections. The Directorate of Fisheries has the authority to place an inspector on board any foreign vessel that conducts fishing within Icelandic waters.

6. Any foreign vessel that conducts fishing within Icelandic waters without a valid permit, or is not in compliance with one or more provision in its fishing permit, can be subjected to penalties.

7. The "Act concerning fishing and processing by foreign vessels in Iceland's exclusive fishing zone" (Act No. 22, 1998) has provisions that enable Icelandic authorities to effectively use port state measures to deter IUU fishing. In addition to port inspections, there are provisions that limit access to Icelandic ports for landing catches and/or seeking provisions. Foreign vessels that fish or process catches which violate agreements on the utilisation and preservation of living marine resources to which Iceland is a party may not enter port in Iceland. This applies regardless of whether the violation occurred inside or outside Icelandic waters.

8. The law furthermore gives the Minister of Fisheries the authority to refuse vessels entry into Icelandic ports if the vessel's flag state is not a party to an agreement concerning the management of the fishery pursued by the vessel in question or which does not abide by the rules set in accordance with such an agreement and to which Iceland is a party. The law also gives the Minister of Fisheries a broad authority to refuse vessels entry into Icelandic ports if that is considered necessary to protect living marine resources.

9. Icelandic Coast Guard vessels conduct inspection operations outside Icelandic waters, in accordance with rules set out within regional fisheries management organisations. Such international cooperation regarding inspections is useful to ensure that the rules governing the relevant fishery are complied with. One limit to the cooperation's usefulness is that vessels whose Flag State is not bound by the relevant regional inspections scheme can, and regularly do, refuse to be inspected.

c) Registration of fishing vessels

10. Registration of fishing vessels is governed by the "Act on the registration of ships" (Act No. 115, 1985). This law deals with the registration of all ships but it has specific provisions regarding fishing vessels, which are stricter than the general rules. The said provisions include limits to the nationality of the owners of a vessel that is eligible for registration as a fishing vessel. Only Icelandic citizens or Icelandic legal persons can get their vessel registered as a fishing vessel. The extent of possible foreign ownership over the eligible Icelandic legal persons is discussed under the item "investment rules" below.

11. Limiting ownership of fishing vessels registered in Iceland to Icelanders increases the control that Icelandic authorities have over the vessel's activities. It also limits the opportunities of those engaged in IUU fishing while flying the Icelandic flag to escape penalties by re-flagging their vessel. While the vessel can be moved into the jurisdiction of a foreign state, the owner can be more easily dealt with if it is an Icelandic citizen or legal person.

12. This results in it being very difficult to use the Icelandic flag as a flag of convenience and ensures that there is at all times a genuine link between the fishing vessel and the flag state.

13. The "Act on the registration of ships" (Act No. 115, 1985) includes provisions regarding bareboat charter of fishing vessels. Bareboat charter of Icelandic vessels into foreign ship registries is subject to many conditions, many of which are set specifically to prevent bareboat charter registration from being used as a tool for IUU fishing. This includes: limits on what foreign registries vessels can be registered on; prohibition on conducting fishing that undermines management measures set in accordance with international law; prohibition on conducting fishing that goes against the conservation of relevant living marine resources even if no management measures limit the activity; and, the flag state fulfils its duties, including control and enforcement duties.

14. If any of the conditions set for bareboat charter registration are breached, the permit for the registration is revoked and the vessel goes back to having the Icelandic flag. This makes it possible for Icelandic authorities to stop any IUU fishing and penalise offenders, as appropriate.

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2. Economic measures***a) Investment rules***

15. Investment in fishing vessels by non-residents of Iceland is subject to certain restrictions. Only the following may conduct fishing operations within Icelandic fisheries jurisdiction or own or run enterprises engaged in fish processing:

- Icelandic citizens and other Icelandic persons.
- Icelandic legal persons which are wholly owned by Icelandic persons or Icelandic legal persons which:
 - i. are controlled by Icelandic entities;
 - ii. are not under more than 25% ownership of foreign residents calculated on the basis of share capital or initial capital. However, if the share of an Icelandic legal person in a legal person conducting fishing operations in the Icelandic fisheries jurisdiction or fish processing in Iceland is not above 5%, the share of the foreign resident may be up to 33%;
 - iii. are in other respects under the ownership of Icelandic citizens or Icelandic legal persons controlled by Icelandic person.

b) Trade rules (including trade-related rules)

16. Iceland implements various trade related rules as a result of its membership of regional fisheries management organisations. Cooperation within NAFO and NEAFC, for example, results in a prohibition of using Icelandic ports for the transfer of fish that has been taken in a manner that undermines relevant management measures.

17. Furthermore, as a member of ICCAT Iceland is bound by trade related rules that have been agreed to within that forum. This includes *inter alia* documentation schemes and commitments not to import relevant products from certain states.

c) Rules regarding landing, transshipments and marketing

18. There are several measures in place in Iceland regarding landing, transshipment and marketing. The most important measures have already been discussed under other items and will not be repeated under this item.

d) Penalties, fees and restrictions to GFTs

19. Penalties for identical fishing violations are the same for Icelandic and foreign fishing vessels.

20. Iceland does not collect fees from foreign vessels for their access to Icelandic waters. All such access is on the basis of agreements between Iceland and the fishing vessel's flag state. Foreign fishing vessels pay the same as Icelandic fishing vessels do in harbour fees, etc.

21. Iceland does not give any direct financial transfers to fishing vessels. The question regarding the relationship between financial transfers and a vessel's history of IUU fishing is therefore not applicable to Iceland.

3. Other measures (including moral/ethical)

22. The Fisheries Association of Iceland is an association representing the industry as a whole including vessel owners, fish processing plant owners, fishermen and fish processing workers. The Association has been working on making an Icelandic Code of Conduct for Responsible Fisheries. Drawing from the FAO Code of Conduct, the idea is to make an Iceland-specific Code that will focus on issues that are most important in Iceland. Like the FAO Code of Conduct, this document will be of a voluntary nature. It will include measures that mobilise the industry itself in efforts against IUU Fishing.

NOT FOR QUOTATION

IRELAND

Forthcoming.

ITALY

Forthcoming.

NOT FOR QUOTATION

JAPAN**1. Legal measures & regulations*****a) Fishing activities by national vessels***

- Japan has a fishery licensing system in place to manage its fisheries. Any person, who intends to operate fishery outside of Japan's EEZ, shall obtain a national fishery license issued by the Minister of Agriculture, Forestry and Fisheries. The license specifies the name of owner/fishing company, one for each fishing vessel. Consequently, one fishing license corresponds to one fishing vessel.
- Detailed rules and regulations of fishery operations are set forth in the relevant provisions of the national laws and government orders of Japan in order to incorporate international rules into domestic legislation to ensure proper management of domestic fishery.
- The maximum penalties for the violation with the above provisions are 3 years imprisonment and/or a fine of JPY 2 000 000. In addition, the Government may confiscate fish, fishing gears, and fishing vessels used for the infraction. Also, the Government may revoke or suspend the license.
- Information related to the vessel's position and catch data shall be reported to the Government without delay when the vessel is on fishing grounds on the high seas. The government dispatches patrol vessels and aircrafts for monitoring and surveillance of the fishing operation. Inspections at landing sites are also duly conducted. Monitoring activities using VMS are also carried out in major fishing grounds.

b) Fishing activities by foreign vessels within EEZ

- The Government of Japan may issue a permit for foreign fishing vessels to operate within Japan's EEZ, if the total catch can be kept within the limit set by the Government. Any foreign person, who intends to operate a fishery within Japan's EEZ, shall obtain a national fishery license issued by the Minister of Agriculture, Forestry and Fisheries. The Government may levy a license fee in this case. The license specifies the name of the owner/fishing company of each fishing vessel. Consequently, one fishing license corresponds to one fishing vessel.
- The maximum penalty for the violations against the above provision (i.e., illegal operation without the license) is a fine of JPY 10 000 000. In addition, the Government may confiscate fish, fishing gears, and fishing vessels used for the infraction.
- Both Nationals of the Republic of Korea and the People's Republic of China can operate fishery in certain areas in Japan's EEZ without the license from the Japanese Minister of Agriculture, Forestry and Fisheries based on the bilateral fishery agreements between Japan and these countries.

- No foreign vessels may operate a fishery within Japan's territorial waters (within 12 nautical miles from the baseline).
- Any foreign fishing vessel, which intends to make a port-call in Japan, shall obtain the port-call permit by the Minister of Agriculture, Forestry and Fisheries.
- The Government applies the same standard of monitoring and surveillance activities for foreign and Japanese vessels within its EEZ. The government dispatches patrol vessels and aircrafts for monitoring and surveillance of the fishing operation. The Governmental fishery inspectors, if necessary, shall order an immediate halt of cruising and conduct on-board inspection for both Japanese and foreign fishing vessels in the EEZ.
- Monitoring activities using VMS are also carried out for fishing vessels of certain countries (as a measure based on reciprocity principle).

c) Registration on fishing vessels

- The Minister of Agriculture, Forestry and Fisheries shall, if necessary, set the upper limit of the total number of and/or total gross tonnages of fishing vessels. To this end, the Government of Japan has established the fishery vessel registration scheme.
- Only registered vessels under this scheme may be used as fishing vessels.
- Information required for the registration includes: ownership of the vessel, the name of the vessel, gross-tonnage, the date of the construction, the name and place of the vessel's construction company.
- The owner shall receive a seal of inspection of the vessel registered every five years by the governor of the local prefecture government.
- The vessel registration shall be expired when the registered vessel is scrapped, when the ownership of the vessels is changed, or when the place of home port is changed.
- The vessel registration ID number shall be displayed clearly on the vessel.

2. Economic measures

a) Investment rules

- Only Japanese vessels may fly the flag of Japan. The definition of Japanese vessels is: (i) vessels owned by Japanese nationals, or (ii) vessels owned by Japanese entities established in accordance with Japanese laws or regulations and whose representatives are 100% Japanese nationals. Among Japanese vessels, only vessels registered under the fishery vessel registration scheme may be used as fishing vessels.
- Any Japanese national, who intends to make a foreign investment in the areas of fishing, weapon manufacturing, or drug producing activities, shall report such intent to the Minister of Finance prior to the actual investment. If the Minister of Finance deems that such investment can cause adverse effect in keeping public order, the Minister shall recommend cancellation or alteration of the investment plan.

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b) Trade rules

- Any person, who intends to import bluefin tuna, southern bluefin tuna, big-eye tuna, sword fish, patagonian-toothfish or Antarctic toothfish, shall submit required statistical documents or catch documents in accordance with the rules set by the relevant international fisheries organizations.
- The Government of Japan may suspend the import of the above fish species, in accordance with decision by such organizations, if the fish was harvested in a manner to undermine conservation and management measures adopted by such international fisheries organizations.

c) Rules regarding landing, transshipments, and marketing

- Any owner of Japanese fishing vessel, who intends to transship tuna species or to land such species at foreign ports, shall obtain general permit issued by the Minister of Agriculture, Forestry and Fisheries. The permit holders shall report to the Minister on the volume of the fish, time and venue of transshipment or overseas landing, prior to each landing or transshipment of fish species managed under international resource management programs.
- Any non-Japanese fishing vessel, which intends to transship or to land any fish species at Japanese ports, shall obtain the landing permit, along with the port-call permit, by the Minister of Agriculture, Forestry and Fisheries, Japan. The maximum penalty for the violations with the above provisions is 3 year imprisonment and/or a fine of JPY 4 000 000.

d) Penalties, fees and restrictions to GFTs

- The information on the maximum penalties in each infraction is provided above.
- No difference exists on the maximum penalties between the flag countries of the vessels in the case of infraction of foreign vessels.

3. Other measures

- As a private sector initiative, the OPRT (Organization for Promotion of Responsible Tuna Fisheries) has been established in Japan in a view to promote responsible tuna fishery.
- The member of the OPRT includes large-scale tuna long-line fishery organizations from China, Chinese Taipei, Indonesia, Japan, Korea, and Philippines, as well as Japanese importer, distributor, consumer organizations.
- Activity of the OPRT includes (i) to disseminate information related to the IUU problems in tuna fishery, (ii) to calculate the landing statistics of tuna by vessel by vessel using the data obtained from Japanese import documentation materials and to report back such figures to the vessels' flag states for their cross-checking of reported catch data, and (iii) to implement scrapping of IUU vessels.

KOREA**Legal measures and regulations*****a) Fishing activity by national vessels***

1. Korea has a legal system to ensure effective fishery management over a range that covers international waters including the high seas and waters outside the EEZs. The system is based on domestic laws such as the Fisheries Act, Fisheries Enforcement Ordinance, and Fisheries Permission and Report Regulations.

2. National fishing vessels that conduct fishing activities in international waters shall obtain fishery licences from the Ministry of Maritime Affairs and Fisheries (MOMAF). Fishery licenses shall specify the person owning the license, type of fishing, fishing gear and method, vessel name, area of fishing, license period and kind of catches.

3. Fishing vessels conducting fishing activities without a license of deep-sea face up to 3 years imprisonment or a fine of from KRW 2 000 000 to KRW 20 000 000. Also fish, fishing gear and fishing vessels may be confiscated, depending on the severity of the violation.

4. If a Korean fishing vessel violates both laws set by coastal states within EEZs and rules set by regional fishery management organisations (RFMOs) while on the high seas and subject to the jurisdiction of RFMOs and relevant Korean national laws, the penalties of the state and RFMOs are assessed simultaneously.

5. One fishery license corresponds to only one fishing vessel. The government has not allowed the number of licensed deep-sea fishing vessels to increase since the acceptance of the recommendation from the FAO or regional fishery management organizations.

6. Detailed regulations on fishing activity adopted by the international Organizations and regional fisheries management organisations(RFMOs) were reflected in domestic law as follows ; Notification No. 2002-35, 2003-26 and 2003-38 of the Ministry of Maritime Affairs and Fisheries regarding enforcement of fishing regulations suggested by RFMOs, and confirmation of exports and imports of swordfish and southern bluefin tuna.

7. In accordance with the Fisheries Act and Ordinance of reports on fishing situations in coastal and deep-sea fishing activities, each deep-sea fishing vessel returning to port shall report within 60 days its fishing period, locations, catches and water temperatures to the Minister of MOMAF. Additionally, deep-sea fishing vessels targeting high-migratory species shall be equipped with VMS systems so MOMAF can monitor their activities.

b) Fishing activity by foreign vessels within EEZ

8. Foreign fishing vessels intending to conduct fishing activities within EEZs shall obtain a fishery license from MOMAF in accordance with Article 5 of the Exercising Sovereignty on Foreign Fishing within EEZs Act.

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9. The license will specify the type of fishery, size of fishing vessel, the number of subsidiary vessels, fishing quotas and species of fishery for harvesting.
10. The licensed foreign vessels shall report the in-out of the Korean EEZs to the Korean government in advance. The report must include the type of fishery, the number of fishery licenses, the name of vessel and the amount of catch.
11. The domestic vessels also have the similar requirements imposed on foreign vessels. The government may levy fees on foreign vessels operating in the EEZs.
12. The government may enforce surveillance activities using VMS on foreign vessels fishing in EEZs on the basis of reciprocal principle.
13. Foreign vessels fishing in EEZs without a license face fines of up to 100,000,000 KW(Korean Won). Also fish, fishing gear and fishing vessels may be confiscated, depending on the severity of the violation.
14. Foreign vessels fishing in EEZs without a license are dealt with according to domestic law while those with a license are dealt with according to the bilateral agreement and the corresponding penalty for the infraction.

c) Registration on fishing vessels

15. In accordance with the Fishing Vessel Act, fishing vessels built for the purpose of fishing, fishery research or fishery enforcement shall be registered with local governments after measuring their gross tonnage.
16. In registering vessels, the following information shall be provided: name of vessel, material of hull, port of registry, where built, name of builder, date of launch and gross tonnage.
17. Under the current registration system, there are no sanction measures for domestic IUU fishing vessels. If a fishing vessel owning a fishery license participates in IUU fishing, such sanction measures as suspension, restriction or cancellation will be applied in accordance with the Fishery Act.

Registration system corresponds to owner of fishing vessels.

18. The vessel registration shall be canceled when a fishing vessel is used for non-fishery purposes, when the owner of nationality is lost or changed or when the vessel is scrapped or submerged. When the owner of a Korean fishing vessel tries to change his nationality into another nationality, he needs no government permission.
19. In accordance with the Fishing Vessel Act and Fisheries Act, the name of vessel, the place of home port and official number shall be marked on the surface of the vessel as well as a certificate of the vessel's nationality so that the vessel can be identified while navigating.

Economic measures***a) Investment rules***

20. Only Korean nationals and corporations established in accordance with Korean law can possess ownership of Korean vessels.

21. Local governments shall consult with the Minister of MOMAF in advance before issuing fishery licenses to foreigners or foreign corporations.
22. When foreigners or foreign corporations invest with Korean nationals or in Korean corporations for the purpose of fishery activities, their investment percentage or voting rights should be at least 50% and they require permission from the Minister of MOMAF.
23. Foreigners and Foreign Corporations may be prohibited or restricted from the acquisition of fishery licenses on the basis of reciprocal principal.

b) Trade rule

24. Anyone who intends to export or import bluefin tuna (ICCAT), southern bluefin tuna (CCSBT), big-eye tuna (CCAMLR), sword fish (ICCAT), patagonian-toothfish (CCAMLR) or Antarctic toothfish (CCAMLR) shall submit the required statistical documents or catch documents in accordance with the rules set by the relevant international fisheries organisations.
25. The government may prohibit or suspend the import of fish species harvested in violations of rules set by such Regional Fisheries Management Organisations (RFMOs) as ICCAT, CCSBT and CCAMLR

c) Rule regarding landing, transshipments, and marketing

26. Foreign vessels operating fishing activities in EEZs under bilateral agreements shall get permission from the Korean government in order to transfer catches to another vessel or land catches in Korean ports.
27. Ships transporting fisheries and seeking to enter ports must have relevant documentation issued in accordance with international agreements.
28. For the purpose of transporting fish or fishery product to another vessel or landing them to port, the owner of the vessel or the company of the vessel shall submit documentation required for export or import related with the concerned state.

d) Penalties, fees and restrictions to GFTs

29. Regarding penalties or restrictions imposed on foreigners or foreign vessels for violation of IUU prevention measure regulations, these are based on the Fisheries Act.
30. Penalties imposed on Korean vessels and foreign vessels for illegal fishing activities are different, depending on specific conditions.
31. If the beneficiary of a fishery loan or tax-free oil is found to have identified as engaged in IUU fishing, in violation of relevant laws or regulations, National Federation of Fisheries Co-operative entrusted with GFTs from government can suspend or collect such GFTs

Other measures

32. The National Federation of Fisheries Co-operative will establish implementation measures for responsible fisheries in coastal fisheries for the prevention of IUU fisheries every year.

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33. It includes voluntary legal fishery campaigns, enforcement against sales of illegal catches, encouragement of transition from illegal fisheries to legal fisheries, educating about and publicizing IUU-prevention activities and so on.

34. The government is trying to persuade such civil organisations as the Korean Deep Sea Fisheries Associations to participate voluntarily in campaigns that prevent fishers from engaging in IUU fishing overseas.

MEXICO**1. Legal Measures and Regulations****a) *Fishing activities by national vessels***

1. In accordance with the Fisheries Law and its Regulations, published in the Official Gazette of the Federation on June 25, 1992, the provisions regulating fisheries activities outside the Exclusive Economic Zone by vessels flying the Mexican flag, are the following:

2. The provisions of the Fisheries Law shall be applicable in federal territorial waters and in vessels flying the Mexican flag that carry out fisheries activities on the high seas or in foreign territorial waters, under concessions, permits, authorizations or any other similar juridical act granted by some foreign government to Mexico or its nationals (Article 2).

3. Likewise, Article 3 provides that the application of this Law corresponds to the Ministry of Fisheries (TODAY CONAPESCA), without detriment to the powers attributed to other agencies of the Federal Public Administration, "to oversee, in coordination with the competent authorities, compliance with the regulations in force in operations of transshipment, landing and change of crew in fisheries vessels flying the Mexican flag or registered in the Mexican Flag Register, in the exclusive economic zone or on the high seas" (paragraph X).

4. Article 15 establishes that the Ministry of Fisheries (TODAY CONAPESCA) may authorize in a non-transferable manner only to individuals or corporations of Mexican nationality, fishing on the high seas or in foreign territorial waters, with vessels of Mexican registration and flag.

5. With regard to infringements, Article 24 indicates that it is an infraction of the provisions of the Fisheries Law to practice fishing on the high seas or in foreign territorial waters, with vessels of Mexican registration and flag, without the corresponding authorization, with the exception of sports-recreational fishing.

6. Moreover, in accordance with the provisions of Article 4 of the Navigation Law, Mexican vessels and naval craft shall be subject to compliance with Mexican legislation, even when they are outside Mexican territorial waters, without detriment to observance of foreign laws, when they are in waters subject to another jurisdiction.

7. According to the Regulations of the Fisheries Law, those interested in obtaining authorization to fish on the high seas or in foreign territorial waters with vessels of Mexican registration and flag, should comply with the following requirements and obligations (Article 52):

- Accredited before the Ministry of Fisheries (TODAY CONAPESCA) the availability of vessels, fishing gear, technical and financial capacity, and of trained personnel to carry out the catches;
- Exclusively use vessels flying the Mexican flag or registered as part of a Flagging Program, in the terms of the Navigation Law, and

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- Respect and strictly comply with international navigation and fisheries provisions, especially those established by foreign governments in their territorial waters.
- The respective authorizations will be granted by the Ministry of Fisheries (TODAY CONAPESCA) only to persons of Mexican nationality.

8. Furthermore, the quotas granted to the country by foreign governments for the utilization or development of their fisheries resources will be administered by the Ministry of Fisheries (TODAY CONAPESCA). Should the governments themselves permit private parties to directly acquire licenses or permits for commercial fishing, the interested parties, at the request of the Ministry of Fisheries (TODAY CONAPESCA), will prove that the catches made were affected under said licenses or permits.

9. Moreover, in accordance with the provisions of Article 53 of the Fisheries Law, those authorized to fish on the high seas or in foreign territorial waters, with vessels of Mexican registration and flag, are obliged to present the notice of putting into port, in keeping with the following requirements:

- Number, date and term of the concession, permit or authorization under which the catch was made;
- Place, date, time of arrival, time of docking, landing of the catch and the period covered by the notice of putting into port;
- Name and number of the vessel's registration;
- Name of the permit-holder, licensee of person authorized, as applicable;
- Place of disembarkation where the operation was carried out;
- Areas in which the fishing was effected;
- Total kilograms of each of the species caught and landed, indicating specifically the information corresponding to the species' common name, variety and presentation, and
- Estimated sales value of the products caught, for statistical purposes.

10. In relation to follow-up and control of fishing vessels, implementing the use of the satellite tracking system on fishing vessels in tuna, swordfish, shark and shrimp fisheries is being considered.

11. To that end, the Federal Government will sign an Agreement with the productive and social sector for the implementation of this system, which is scheduled to begin operating in 2004.

b) *Fishing activities by foreign vessels within EEZ*

12. Under a Fisheries Agreement signed between Mexico and Cuba in 1976, Cuban vessels carry out fisheries activities within the Mexican Exclusive Economic Zone.

13. By means of said Agreement, catch quotas from the fisheries of grouper, red snapper, sierra, sawfish, shark and related species are assigned annually to the Government of Cuba.

14. In accordance with the provisions of the Fisheries Agreement, the Fisheries Authorities of both governments meet every year alternately in Mexico and in Cuba, in order to carry out Annual Consultations on Application and Fulfillment of said Agreement. At these consultations, among other matters annual catch volumes are set, including the species and the Fishing Permits that Mexico will authorize and grant the Cuban fleet for its operation in Mexican territorial waters in the Gulf of Mexico and the Caribbean.

15. In general terms, the Fisheries Agreement with Cuba regulates not only the species, volumes, number of vessels and the fishing tackle and equipment to be used, but also the manner of operation of the fleet, as well as the mechanisms whereby the results of the operation of the Cuban vessels are verified.

16. It should be underscored that administrative control of the Cuban fleet's operations is carried out on the basis of:

2. Notices of vessels' putting into port.
3. Monthly catch reports.
4. Fishing logs (established as of 1981).
5. Monitoring actions by the Ministry of the Navy.

17. It should also be mentioned that foreign vessels located in Mexican inshore waters and marine zones are subject, due to that fact alone, to Mexican jurisdiction and to compliance with Mexican legislation.

18. Furthermore, Mexico grants permits to carry out scientific research and collection in its national territory to research institutions, technicians and scientists, mainly from the United States, with the aim of broadening biological knowledge of the different species that the country has.

19. To that end, the Fisheries Law clearly establishes the requirements to be met by the institution or requesting scientist, who should fill out an application form and turn it over to the Ministry of Fisheries (TODAY CONAPESCA), through the Ministry of Foreign Affairs, with the following data:

- Name of person responsible;
- Objectives;
- Practical application of the results;
- Participants, materials, vessels and equipment to be used, as applicable;
- Operations to be carried out, with their schedule;
- Areas and depths of operation;
- Determination of species that are the subject of the study or research, and
- Amount of samples to be collected.

20. Likewise, applicants for permits for development fishing, for purposes of experimentation or exploration on board oceanographic or research ships, should provide, in addition to the data referred to in the preceding article, the data indicated below:

- Characteristics of the vessel and its installations on board;
- Manoeuvres to be carried out;
- Crew and routines;
- Description of the fishing methods and tackle to be used, as well as the intended experimentation or exploration program;
- Data on fishing capacity and expected catch;
- Cruiser plan, including map and network of stations, and
- Future availability of project results.

21. In both cases a preliminary report should be presented to the Ministry of Fisheries (TODAY CONAPESCA), and subsequently the final report on the result of the studies made under the permits, which should indicate, among other aspects, the content, time frames and manner of delivery of the reports, according to the project in question.

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22. It is important to mention that the granting of said research permits requires authorizations from different government agencies (Ministries of the Interior, of the Navy and SAGARPA-CONAPESCA), so that the viability and approval of said research permits are determined within their spheres of competence.

23. In accordance with the provisions of Article 14 of the Fisheries Law, the fisheries authority, in keeping with the national interest and the international treaties and agreements to which Mexico is a party, shall determine and if applicable shall declare whether there are surpluses by species; if so, it shall permit, as an exception, foreign vessels to participate in said surpluses in the exclusive economic zone and by means of compliance with the requirements and conditions established for each case by the agency itself. In any case, the most rigorous reciprocity shall always apply.

24. The respective permit shall be non-transferable and subject to the signing of agreements with the States requesting it and, in the case of individuals and corporations of foreign nationality, with prior request and compliance with the requirements established in the regulations.

25. In the case of Cuban vessels, these must comply with the provisions of the Fisheries Agreement signed in 1976, which indicates that Cuban vessels should show the Fishing Permit issued by the Government of Mexico, together with the form of the National Fisheries Register, which should contain the conditions and restrictions applicable to each vessel's fishing operations.

26. In general terms, the Fisheries Agreement with Cuba regulates not only the species, volumes, number of vessels and fishing gear and equipment to be used, but also the fleet's manner of operation, as well as the mechanisms by means of which the results of the operation of Cuban vessels are verified.

27. National scientific observers take part in this verification on board said vessels in order to evaluate the biological effects of the Cuban fleet's catches by means of random sampling and collection and exchange of technical-biological data on the resources, used to determine permissible levels of utilization.

28. Likewise, a statistical register of the catches is taken and information is exchanged through a detailed follow-up of the movements and operation of the Cuban fleet, for which purpose a series of mechanisms for compiling and analysis of information, such as:

- Calendar of arrivals and departures of the ships of the Cuban fleet
- Catch forecasts
- Notices of putting into port
- Monthly reports on vessels' catches, and
- Fishing logs

29. As indicated in Article 25, infringements of the provisions of the Fisheries Law shall be sanctioned by the Ministry of Fisheries (TODAY CONAPESCA) according to the gravity implied by the fault committed by the offender and without detriment to the corresponding penal sanctions, if applicable.

30. In this context, and in the case of foreign vessels detained for fishing illegally in federal territorial waters, the international obligations undertaken by our country should be observed, based on the strictest reciprocity. The admonition will be applied in any case to the offenders and will serve as support to increase economic sanctions for second offenders.

31. In the case of the Fisheries Agreement with Cuba, various measures are envisaged with regard to compliance with the provisions for Cuban vessels, among them:

32. The authorities of the Navy of Mexico have the right to stop and board for inspection any boat flying the Cuban flag that is fishing in the area.

33. The Government of Mexico can impose measures and sanctions in the terms established by its law on Cuban ships that infringe Mexican legislation. The measures and sanctions could include seizure of the catch and fishing tackle, fines, detention of the vessels and application of sureties.

34. The ships detained and their crews will be released immediately upon deposit of a surety or other guarantee.

35. Sanctions for violations of fisheries regulations applicable to vessels of the Republic of Cuba do not include the penalty of prison, nor any other type of corporal punishment.

36. In the annual consultations, the Government of Mexico takes into account the violations that have taken place by Cuban fishing vessels in previous years.

37. It should be mentioned that the Mexican fisheries authorities have the intention of implementing an Observers Program on board the Cuban fishing fleet which is currently in the process of appraisal.

38. At present there is no legal provision at national level that takes into account measures aimed at vessels without nationality that sail the high seas practicing IUU fishing. National legislation only includes provisions when this type of vessel is found fishing in areas under national jurisdiction.

39. However, at regional level, within the framework of regional conservation and ordering agencies in which Mexico participates as a full member, such as the Inter-American Tropical Tuna Commission (CIAT) in the Pacific Ocean and the International Commission for the Conservation of Atlantic Tuna (CICAA) work has begun, and progress has been made in the establishment of provisions against ships without nationality.

40. It is worth mentioning the particular case of Cuban vessels, the only vessels permitted to fish in the Mexican Exclusive Economic Zone within the framework of the Fisheries Agreement between the two countries, signed in 1976, which among its provisions includes various measures on compliance with provisions for Cuban vessels, as well as their sanctions, and which has already been dealt with in earlier points.

c) *Registration of fishing vessels*

41. In accordance with the Fisheries Law and its Regulations, a National Fisheries Register (RNP) was established in which individuals or corporations pursuing this activity under a concession, permit or authorization must register compulsorily. Likewise, vessels engaging in fisheries activities must register in the National Maritime Public Register (Ministry of Communications and Transportation), as must aquaculture development units, fisheries schools and centers devoted to research or teaching in aquatic flora and fauna.

42. Through said Register, with the updating work, the status and control of licensees, permit-holders and persons authorized to carry out fisheries activities can be verified. Also, it is important to point out that registrations in the RNP are done only once and any change in the circumstances that gave rise to registration must be notified to the fisheries authority by those who possess the registration certificate, in order to update it or resolve on its cancellation when this is in order.

43. Within this framework, and with the same objective of facilitating inspection and monitoring work, another of the tasks that has been undertaken is the preparation and publication on the

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CONAPESCA Internet page of a database on permits and concessions registered in the RNP for small and large vessels (CONAPESCA Internet page, in compliance with the Federal Law on Transparency and Access to Government Information).

44. Likewise, vessels engaging in fisheries activities must register in the National Maritime Public Register, as must aquaculture development units, fisheries schools and centers devoted to research or teaching in aquatic flora and fauna. CONAPESCA is in charge of issuing the corresponding certificate of registration.

45. Furthermore, the information corresponding to Mexico is being prepared to be submitted to FAO in order to comply with the provisions of the Compliance Agreement, in effect as of April 24 this year with respect to vessels authorized to fish on the high seas.

46. The data being considered are the following:

1. name of the fishing ship, registration number, previous names (if known), and port of registration;
2. former flag (if applicable);
3. international radio call sign (if applicable)
4. name and address of owner or owners;
5. place and date of building;
6. type of ship;
7. length;
8. name and address of shipbuilder or shipbuilders (if applicable);
9. type of fishing method or methods;
10. moulded depth;
11. beam;
12. gross tonnage;
13. power of main engine or engines.

47. Article 14 of the Navigation Law indicates that the Ministry of Communications and Transportation is in charge of the **National Maritime Public Register**, in which will be registered, among other elements, the certificates of registry of Mexican vessels and naval craft and Mexican ship owners and agents, as well as operators, for whose registration it will suffice to include a copy of their articles of association or birth certificate, as applicable.

48. In order to act as a ship owner or Mexican shipping company it is necessary:

- To be Mexican or a company incorporated according to Mexican laws;
- To have a registered office in national territory; and
- To be registered in the National Maritime Public Register.

49. It is presumed that the owner or co-owners of the vessels are its operators, unless there is proof to the contrary.

50. The ship owner that assumes the operation or exploitation of a vessel that is not its property must make a shipbuilder's declaration before the maritime authority of the port of registration. Said declaration will be annotated in the margin of its registration in the National Maritime Public Register and when that capacity ceases, the cancellation of said annotation should be requested. This declaration may also be made by the owner of the vessel.

51. The captains, naval pilots, skippers, naval engineers, mechanical operators and, in a general manner, all the personnel who crew any Mexican merchant vessel must be Mexican by birth, not acquire another nationality and have full enjoyment and exercise of their civil and political rights.

52. On fishing vessels, the personnel on board who only carry out functions of instruction, training and supervision of activities related to catching, handling or processing of the fisheries resources are not considered crew.

53. In accordance with the provisions of the Navigation Law, the indispensable requirement for reflagging a national vessel in favor of another Nation State is to cancel the vessel's certificate of registration. Article 13 of said Law explains the cases in which the certificate of registration of a vessel is cancelled by the maritime authority, and among these, for this case the following are pertinent:

(Paragraph IV). When its owner or possessor ceases to be Mexican, except in cases of recreational or sports vessels for private use;

(Paragraph V). Due to its sale, acquisition or transfer in favor of foreign governments or persons, with the exception of recreational or sports vessels for private use;

(Paragraph VIII). For resignation of flag by the owner or holder of the certificate of registration.

54. Likewise, it mentions that the maritime authority will only authorize the resignation of flag and the cancellation of registration of a vessel or naval craft when the payment of labor and fiscal credits is covered or guaranteed, and there is proof of freedom from liens issued by the National Maritime Public Register, unless there is an agreement to the contrary between the parties.

55. In this same context, with regard to infringements, Article 140 (F) mentions that the Ministry of Communications and Transportation will impose a fine of between ten thousand and fifty thousand days of wages on those who "Flag or register a vessel or naval craft in another State, without having previously obtained the resignation of the Mexican flag."

56. In this case, the measures indicated in the preceding paragraph also apply. Furthermore, work is under way in regional agencies to prepare lists of vessels authorized to fish, and this in some way avoids reflagging.

57. In considering these questions, you are encouraged to provide information concerning potential legal measures that are being considered within the framework of the development of a national plan of action on IUU/FOC fishing activities.

58. The Legal Department is working on elaboration of this item.

2. Economic Measures

a) Investment rules

59. The Fisheries Law does not provide for the issuing of licenses to foreign vessels. Foreign participation can only take place through joint investment companies, incorporated under Mexican legislation, in which the share of foreign investment cannot exceed 49% of the company's capital stock. In companies engaged in aquaculture, industrialization or marketing of fisheries products, foreign investment may be up to 100%.

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60. Article 7 of the Law on Foreign Investment specifically establishes that in the economic activities and corporations mentioned below, foreign investment may participate up to 49% in:

- Fresh water and coastal fishing and in the exclusive economic zone, without including aquaculture;
- Port piloting services for vessels to carry out inland navigation operations in the terms of the Law on the matter;
- Shipping companies engaged in commercial operation of vessels for inland and coastal navigation, with the exception of tourist cruisers and the operation of dredgers and naval craft for port construction, conservation and operation;
- Supply of fuels and lubricants for vessels, aircraft and railroad equipment.

61. The limits on participation of foreign investment indicated in this article cannot be exceeded directly, nor through trust funds, agreements, social or statutory pacts, pyramid schemes, or any other mechanism that grants control or a greater share than that established.

62. Similarly, Article 8 of this same Law indicates that a favorable resolution is required from the National Foreign Investment Commission (which is made up of the heads of State Ministries, and those authorities and representatives of the private and social sectors who are related to the matters to be dealt with are invited to participate in its sessions, but will not have the right to vote), so that foreign investment participates with a percentage greater than 49% in the economic activities and corporations mentioned below:

1. Port services for vessels to carry out their inland navigation operations, such as towage, mooring of ropes and lighterage.
2. Shipping companies engaged in operating vessels exclusively in offshore trade.

b) Trade rules (including trade-related rules)

63. Mexico does not support the application of trade sanctions, since it is considered that they are not a suitable and just means to promote the protection of species. Nonetheless, Mexico participates in regional forums in which sanctions or measures are applied to vessels that carry out INDNR fishing activities, as is the case with the International Commission for Atlantic Tuna Conservation (CICAA), and we also take part in schemes for the certification and documentation of catches, as is the case with CIAT.

64. For some years CICAA has been applying sanctions to vessels carrying out activities that impair the established ordering and conservation measures. Under these provisions, prohibitions have been applied to imports of some species from countries such as Belize, Cambodia, Honduras, Saint Vincent and the Grenadines, as well as Equatorial Guinea, for not reporting information on catches by ships under their flags, not complying with the ordering and conservation measures agreed upon by the Commission, and for fishing in the area regulated by the Commission without having a quota assigned by the latter.

65. This body establishes that when a Contracting Party carries out this type of activities, any necessary new measure will be applied to guarantee compliance, and when non-Contracting Parties are involved, it is established that “effective measures” will be applied, including non-discriminatory restrictive trade measures on the affected species, consistent with international trade obligations.

66. The application of trade sanctions has been the main coercive measure applied within the framework of CICAA to combat INDNR fishing, and although it is already an accepted practice, Mexico

has fought for its application to be considered only in cases in which all possible means to call upon countries to cease carrying out this type of activities have been exhausted, and that such measures are applied in a non-discriminatory and justified manner, adhering to the rules agreed upon in pertinent international trade forums such as the World Trade Organization.

67. In keeping with this policy, CONAPESCA, in coordination with the Mexican environmental authorities, participates in the work of the International Convention on Trade in Endangered Wild Flora and Fauna Species (CITES), so that the decisions taken in this forum on fisheries species are balanced as regards their protection and development.

68. Although we share CITES' objective of promoting international cooperation to reduce the risk, by means of trade regulation, in this case of marine species of commercial importance, as a measure to avoid INRND fishing activities through the implementation of its provisions, it is considered that these should not become restrictions to trade in fisheries species.

69. With regard to schemes for certification and documentation of catches, in 2001 a certification system and a label called "Dolphin Safe APICD" tuna were approved, based on a regional program for dolphin protection in the Eastern Pacific Ocean which promotes tuna fishing associated with dolphins under rigorous protection measures.

70. Dolphin Safe APICD tuna certification is the only one in the world backed by a far-reaching multilateral system, with a transparent system for tuna follow-up, and which in addition includes broad participation by countries through an international instrument.

71. This certification program is based on a system of follow-up and verification whose purpose is to document at all times, from the catch up to the process (landing, processing and marketing) that all the tuna is caught and finally marketed in accordance with the rules established within the framework of regional management agencies that administer said fishery, such as CIAT and the Agreement on the International Program for Dolphin Conservation (APICD) and that this product does not come from non-regulated or non-reported fishing.

72. The CICAA, for its part, applies "Statistical Document Programs" whose purpose is to provide statistical and commercial data on the species and, above all, to have an effective control instrument to eliminate INDNR fisheries operations.

73. At present, statistical documents are managed for big-eyed tuna, swordfish and blue-fin tuna when they are going to be imported into the territory of a Contracting Party of CICAA. Said document has a pre-established format and must be validated by a government official or other duly authorized person or institution; it should contain the following information: Country or flagging fisheries entity, name of the ship and registration number, point of departure of export, catch area, description of fish, exporter's certificate (in which the information provided is validated), Government validation and import certificate (in which the importer validates the shipment he is receiving and provides his data).

74. Likewise, a certificate of re-export is used for big-eyed tuna, which is basically required by the Japanese government and whose format is very similar to the statistical documents.

75. For validation of these certificates, all the Contracting Parties or Entities involved in the exportation and/or importation of the species in question must send the seals and original signatures of the officials empowered to issue said statistical documents or certificates to the CICAA, and they must also keep them updated. Subsequently, the Secretariat of the agency turns over a copy of said documents to all the interested parties, so that they are apprised thereof and can verify that the validation is correct.

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76. These statistical and certification Programs make it possible to compare species' export and import data, which increases the credibility of the statistical data, and also importing countries can avoid the unloading of shipments stemming from INDNR fishing activities, in this regard, and in view of the usefulness of this mechanism in CICAA.

77. A certification programme of this nature has been adopted within the framework of CIAT for big-eyed tuna imports.

c) *Rules regarding landing, transshipments and marketing*

78. According to the Navigation Law, navigation in Mexican marine zones and arrival at Mexican ports will be open, in peacetime, for vessels of all countries, in the terms of international treaties.

79. Despite the above, the same Navigation Law points out that navigation in Mexican marine zones and arrival in Mexican ports may be denied by the maritime authority when there is no reciprocity with the country of registration of the vessel, or when so demanded by the public interest, and that vessels navigating in Mexican marine zones should be flagged in a single country, fly their flag and have their name and port of registration clearly marked.

80. Finally, it points out that the Maritime Authority may, as a result of an act of God, declare at any time, provisionally or permanently, certain ports closed to navigation, in order to safeguard persons and assets.

81. For this case, Article 24 of the Fisheries Law indicates that the following are infringements of the provisions of this Law: i) Disembark fisheries products abroad or transship them without having the authorization of CONAPESCA, except in case of catastrophe (Paragraph X) and ii) Unload in Mexican ports commercial fisheries products from foreign vessels, without the authorization of CONAPESCA, except in case of a catastrophe (Paragraph XI).

82. In this context, and in accordance with the Regulations of the Fisheries Law Articles 66 to 68 establish the measures that foreigners must observe for unloading in Mexican ports, as described below:

83. **Article 66.** Those interested in obtaining authorization so that fishing vessels flying a foreign flag can unload fresh, iced or frozen fisheries products in Mexican ports should submit their request in writing, with the following requirements:

1. Name of vessel;
2. Species caught, volume and presentation;
3. Place of the catches, attaching if applicable an informal copy of the fishing log or its equivalent;
4. Species to be unloaded, volume and presentation;
5. Date and port where unloading is to take place;
6. Destination of the products to be unloaded, and
7. Show the corresponding title under which the fisheries activity was carried out, issued by the competent authority of the country of origin.

84. **Article 67.** The Ministry shall resolve the request for authorization referred to in the preceding article, in the following terms:

1. To disembark fresh or iced products within a period of 3 working days, under the following procedure:

1. The Ministry shall prepare the file within a period of 1 working day, during which it will require the interested party to provide any missing information or documentation. If it does not require the interested party to remedy any deficiencies that may exist, the file shall be considered complete, and
2. Having prepared the file, within the following 2 working days the Ministry shall resolve by granting or denying the authorization requested, and
2. To disembark frozen products within a period of 6 working days, under the following procedure:
 1. The Ministry shall prepare the file within a period of 2 working days, during which it will require the interested party to provide any missing information or documentation. If it does not require the interested party to remedy any deficiencies that may exist, the file shall be considered complete, and
 2. Having prepared the file, within the following 4 working days the Ministry shall resolve by granting or denying the authorization requested.

85. In both cases, if the respective periods have elapsed without the Ministry having issued the resolution, the request shall be considered granted.

86. **Article 68.-** Fishing vessels flying a foreign flag are forbidden from disembarking fisheries products from commercial fishing in Mexican ports, except in case of a catastrophe or in cases in which the Ministry expressly authorizes it.

d) Penalties, fees and restrictions to GFTs

87. As mentioned previously, in the case of foreign vessels detained for fishing illegally in federal territorial waters, the international obligations contracted by our country should be observed, based on the strictest reciprocity. The admonition will be applied in any case to offenders and will serve as support to increase financial sanctions on second offenders.

88. In accordance with the Fisheries Agreement signed with Cuba in 1976, it was established that the Cuban authorities must make a payment to the Government of Mexico for the granting of each annual permit issued to a Cuban fishing vessel.

89. Likewise, during the consultations held annually the reconciliation of catches is carried out and the payment of taxes to be covered by the Cuban party for catches within the Mexican EEZ.

90. Similarly, a fee is established for US vessels that request and are granted a permit for purposes of scientific research.

3. Other measures (including moral /ethical)

91. The international agreements and commitments signed by Mexico to combat IUU fishing are disseminated among industry and fishers in general. Such is the case with the International Action Plan of FAO on illegal fishing and the Code of Conduct for Responsible Fishing.

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NETHERLANDS**1. Legal measures & regulations*****a) Fishing activities by national vessels***

1. We would like to add to the Commission's reply that the Netherlands primarily institutes criminal proceedings against IUU fishing.

2. National inspection and enforcement bodies are authorised to take action in the EEZ (pursuant to the responsibilities laid down by the CFP). They are also authorised to act in the event of a breach by vessels bearing the Dutch flag outside the EEZ or by a vessel bearing the flag of one of the signatory states to the Straddling Stocks Treaty.

3. We cannot give any examples of IUU fishery activities by Dutch fishing vessels or of national measures taken.

b) Fishing activities by foreign vessels within EEZ

4. European legislation allows fishing in the EEZ. Only a limited number of Member States are allowed in the Dutch 12-mile zone. The Dutch 3-mile zone is reserved for Dutch and Belgian fishermen (the latter having permission under the Benelux Treaty).

5. EU and national legislation, the same responsibilities as apply to national fishing vessels.

6. The Netherlands does not distinguish between fishing with or without a permit. The same national laws apply to violations, and parties found to be in violation are subject to the most stringent category of sanctions (illegal fishing). The minimum fine is 4500 euros, the catch is seized and confiscated and provisional action is taken to freeze the activities of the business concerned.

7. The Netherlands has no examples of foreign vessels charged with IUU or of measures taken in that event.

c) Registration of fishing vessels

8. According to EU regulations, the vessel must be equipped for fishing, and must be able to fish commercially. This means that the entrepreneur concerned must hold the necessary permits and fishing documents (European fishing permit, permits for specific types of fishery) and the vessel is inspected by the Shipping Inspectorate. Vessels are inspected annually.

9. A vessel is registered as Dutch if its primary base of operations is the Netherlands, its normal home port is a Dutch port and if it is at least two-thirds owned by one of more persons holding the nationality of one of member states of the EU or the EEA, or by a legal entity incorporated under the law of one of the member states of the EU or the EEA and whose registered office, executive board or head office is situated in the EU or the EEA.

2. Economic measures

a) Investment rules

10. The ownership of Dutch flag vessels is restricted, unless the investment is made by shipping companies incorporated under Dutch law, established in the Kingdom of the Netherlands and having their actual place of management in the Netherlands. The national flag is reserved for ships owned by nationals incorporated under Dutch law, established in the Kingdom, and have their actual place of business in the Netherlands.

b) Trade rules

11. Under Dutch law, foreign parties placing fish on the market (auction, trade and processing) must provide the name of the vessel that caught the fish. When the vessel is not known, the fish is seized and confiscated under the category NN (Niet Natuurlijke Personen, or non-legal bodies). The proceeds go to the Kingdom of the Netherlands.

c) Rules regarding landing, transshipments and marketing

12. These vessels fall under current regulations. In the event of a violation, they are subject to the severest regime.

d) Penalties, fees and restrictions to GFTs

13. No distinction is made between different nationalities. In the event of illegal fishing, the most severe category of sanctions applies. See section 1b. Port fees are charged for landings in Dutch harbours. No other levies are charged.

3. Other measures

14. We know of no other measures against IUU fishing.

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NEW ZEALAND

1. Legal measures & regulations**a) *Fishing activities by national vessels*****High Seas*****General provisions***

1. This section describes the legal provisions that control New Zealand flagged vessels and New Zealand nationals when fishing in all areas of the high seas.

Control of New Zealand flagged vessels

2. Under Part 6A (High Seas Fishing) of the Fisheries Act 1996 (the Fisheries Act), any person using a New Zealand flagged vessel to take or transport fish on the high seas must do so in accordance with a high seas fishing permit issued in respect of that vessel. For a high seas permit to be issued, the applicant and vessel must meet the following criteria:

- The vessel must be registered under the Ship Registration Act 1992;
- The vessel must be registered in the Fishing Vessel Register under the Fisheries Act as either a fish carrier or a fishing vessel;
- The applicant must be named in the Fishing Vessel Register as the operator⁷ of the vessel;
- The applicant must not have engaged in fishing or transportation in a manner that undermined the effectiveness of international conservation and management measures, and that resulted in a high seas fishing permit, or an equivalent authorisation granted by a participating state or a party to the FAO Compliance Agreement, being suspended or revoked during the 3 years immediately preceding the application (the 3-year period);
- The applicant must not have engaged in fishing or transportation on the high seas during the 3-year period without a high seas fishing permit (or equivalent authorisation granted by a participating state), if a high seas fishing permit was required for that fishing or transportation, and in a manner that undermined the effectiveness of international conservation and management measures.

3. When making a decision whether to issue a high seas fishing permit, previous offending history is considered. This includes any offences in relation to fishing or transportation (whether within the

⁷ Under the Fisheries Act 1996, 'Operator' is defined as - in relation to a vessel, means the person who, by virtue of ownership, a lease, a sublease, a charter, a subcharter, or otherwise, for the time being has lawful possession and control of the vessel.

national fisheries jurisdiction of New Zealand or another country, or on the high seas), of the vessel's owner, operator, foreign charterparty, notified user, master, or crew.

4. High seas fishing permits are issued for a period of up to one year and are subject to conditions (these are explained later in this document). High seas fishing permits are not area or species specific. However, in most cases, to fish on the high seas in an area and for a species covered by a Regional Fisheries Management Organisation (RFMO), an additional authorisation is required (this is explained in the next section).

5. Using a New Zealand flagged vessel to fish or transport fish on the high seas without a high seas fishing permit can result in a penalty of up to NZD 250 000. Contravention of high seas fishing permit conditions can result in a penalty of up to NZD 100 000. Both of these offences also result in forfeiture of the fish (or proceeds from the sale), fishing gear and the vessel to the Crown. In addition, the Chief Executive of the Ministry of Fisheries has the discretion to suspend or revoke the high seas fishing permit.

6. If a person is convicted more than once within 7 years for specified serious offences, such as using a New Zealand flagged vessel to fish on the high seas without a high seas fishing permit, they are banned from the following (from hereon in this document, this provision is referred to as the “banning provision”):

- holding any license, approval, or fishing permit obtained under the Fisheries Act, including a domestic or high seas fishing permit;
- engaging in fishing authorised under the Fisheries Act or any activity associated with the taking of fish; or
- deriving any beneficial income from fishing related activities under the Fisheries Act– for a period of 3 years⁸.

Control of New Zealand nationals

7. The fishing activities of New Zealand nationals on foreign flagged vessels are also controlled under Part 6A of the Fisheries Act. No New Zealand national may use a foreign flagged vessel to take or transport fish on the high seas unless they do so in accordance with an authorisation issued by a state that meets one of the following criteria:

- A state that is a party to the UN Fish Stocks Agreement; or
- A state that is a party to the FAO Compliance Agreement; or
- A state that is a party to, or has accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement to which the authorisation relates; or
- A state that :
 - Is a signatory to the UN Fish Stocks Agreement; and
 - Has legislative and administrative mechanisms to control its vessels on the high seas in accordance with that agreement.

8. A New Zealand national may apply to the Minister of Fisheries for an exemption from these requirements in the following circumstances:

⁸ Any “banned person” can apply from relief from the Court

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- The applicant is a citizen of another country and that country has jurisdiction over the applicant's proposed fishing activities on the high seas; and
- New Zealand is not a participant in, or a member of, or has not accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement that covers the area of the high seas in which the applicant proposes to take or transport fish, aquatic life, or seaweed; and
- The applicant has not engaged in fishing or transportation :
 - In a manner that undermined the effectiveness of international conservation and management measures; and
 - That has resulted in a high seas fishing permit, or an equivalent authorisation granted by a participating state or a party to the FAO Compliance Agreement, being suspended or revoked during the 3 years immediately preceding the application ('the 3-year period'); and
- The applicant has not engaged in fishing or transportation on the high seas during the 3-year period :
 - Without a high seas fishing permit (or equivalent authorisation granted by a participating state), if a high seas fishing permit was required for that fishing or transportation; and
 - In a manner that undermined the effectiveness of international conservation and management measures.

9. Contravention of the “New Zealand national” provisions outlined above can result in a penalty of up to NZD 250 000 and forfeiture of the fish (or proceeds from the sale) to the Crown. If a person is convicted more than once within 7 years for specified serious offences, such as contravening the “New Zealand national” provisions, the “banning provision” applies for a period of 3 years.

Additional provisions for high seas areas subject to RFMOs

10. This section describes the additional legal provisions that control New Zealand flagged vessels and New Zealand nationals when fishing on the high seas in areas that are covered by RFMOs.

11. New Zealand is party to three arrangements that regulate fishing by New Zealand flagged vessels and New Zealand nationals on the high seas⁹. They are:

- Arrangement between the Government of New Zealand and the Government of Australia for the Conservation and Management of Orange Roughy on the South Tasman Rise (STR Arrangement);
- Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR); and
- Convention for the Conservation of Southern Bluefin Tuna (CCSBT).

For each of these arrangements, there are specific provisions that apply to New Zealand flagged vessels and New Zealand nationals, in addition to the general provisions outlined in the previous section.

⁹ New Zealand is also party to Convention on the Conservation and Management of Highly Migratory Fishstocks in the Western and Central Pacific Ocean (WCPFC) which is not yet in force.

STR Arrangement

12. To engage in trawling or other demersal fishing in the high seas area of the South Tasman Rise¹⁰, all people using New Zealand flagged vessels must hold a high seas fishing permit as well as an additional authorisation issued under the Fisheries (South Tasman Rise Orange Roughy) Regulations 2000.

13. To obtain such an authorisation, the vessel must be registered under the Ship Registration Act 1992 and in the Fishing Vessel Register under the Fisheries Act as a fishing vessel, and the holder of the authorisation must be the operator of the vessel. Before issuing an authorisation, the Chief Executive of the Ministry of Fisheries may have regard to any previous offending history of the vessel's owner, operator, notified user, master, or crew; and such other matters as the he/she considers relevant. The authorisations are issued subject to conditions.

14. The activities of New Zealand nationals fishing in the high seas area of the South Tasman Rise are also controlled by the Fisheries (South Tasman Rise Orange Roughy) Regulations 2000. New Zealand nationals fishing in the high seas area of the South Tasman Rise using a non-New Zealand flagged vessel are required by the regulations to hold an authorisation issued by a Party to the arrangement other than New Zealand. In addition, no person may land fish in New Zealand taken by trawling or other demersal fishing in the high seas area of the South Tasman Rise unless that fish was caught in accordance with an authorisation issued by New Zealand or another Party to the arrangement.

15. Contravention of the Fisheries (South Tasman Rise Orange Roughy) Regulations 2000 can result in a penalty of up to NZD 100 000 and forfeiture of the fish (or proceeds from the sale), fishing gear and the vessel to the Crown.

CCAMLR

16. New Zealand flagged vessels and New Zealand citizens fishing within the CCAMLR Area are required to hold a permit issued under the Antarctic Marine Living Resources (AMLR) Act 1981. The AMLR Act gives effect to New Zealand's obligations under CCAMLR. For New Zealand flagged vessels, an AMLR permit is required in addition to a high seas fishing permit. To be granted an AMLR permit, applicants must meet specific criteria, for example, satisfactory compliance history and capacity to meet CCAMLR Conservation Measure requirements. All AMLR permits issued incorporate the requirements of CCAMLR Conservation Measures as conditions.

17. Fishing in the CCAMLR Area without an AMLR permit can result in a penalty of up to NZD 250 000. Breaches of AMLR permit conditions can result in a penalty of up to NZD 100 000.

CCSBT

18. A person using a New Zealand flagged vessel to fish on the high seas for southern bluefin tuna is required to hold only a high seas fishing permit. Catch of southern bluefin tuna by New Zealand flagged vessels is closely monitored by the New Zealand Ministry of Fisheries throughout the season and the fishery is closed to New Zealand flagged vessels once New Zealand's catch allocation under CCSBT is reached. Any person using a New Zealand flagged vessel, and any New Zealand citizen, who takes southern bluefin tuna once the New Zealand catch limit is reached is liable to a penalty of up to NZD 100 000 and the fish (or proceeds from the sale), fishing gear and the vessel may be forfeit to the Crown.

¹⁰ An under-sea ridge extending south from Tasmania, Australia into the Southern Ocean straddling the Australian EEZ and the high seas.

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Other RFMOs

19. High seas fishing permit conditions prohibit fishing by New Zealand flagged vessels in areas or for species covered by RFMOs to which New Zealand is *not* a party, without a specific approval from the Chief Executive of the Ministry of Fisheries. Any such approval issued would be subject to conditions reflecting the relevant conservation and management measures of the RFMO. New Zealand may need to become a cooperating non-member or member (as appropriate) of the RFMO prior to issuing an approval.

20. Contravention of this provision can result in a penalty of up to NZD 100 000 and forfeiture of the fish (or proceeds from the sale), fishing gear and the vessel to the Crown. If a person is convicted three times within 7 years for specified serious offences such as this, the “banning provision” applies for a period of 3 years.

Compliance tools to control high seas fishing

21. Through the Fisheries Act (including high seas fishing permit conditions), New Zealand uses a number of compliance tools to control the activities of New Zealand flagged vessels fishing on the high seas. These tools include:

- Fishing permit and fishing vessel registers;
- Operation of VMS;
- Reporting (including catch and effort reporting);
- Carriage of observers;
- Vessel marking requirements;
- Vessel inspections;
- Control of landings (such as requirement to land only to licensed fish receivers);
- Auditing of licensed fish receivers;
- Control of transshipment;
- Analysis of catch and effort reporting and comparison with VMS data to confirm accuracy;
- Boarding and inspection by fishery officers at sea;
- Aerial surveillance by RNZAF Orion aircraft; and
- Any other measures required by RFMOs where relevant (e.g. application of CCAMLR Catch Documentation Scheme for vessels catching toothfish)

Below are further details on some of these compliance tools.

VMS

22. All New Zealand flagged vessels fishing on the high seas are required by high seas fishing permit conditions to carry and operate an automatic location communicator (ALC) at all times. The ALC must comply with specific standards and requirements.

Reporting

23. When on a fishing trip on the high seas, high seas fishing permit conditions require New Zealand flagged vessels to notify the Ministry of Fisheries before departing port; when entering or exiting the New Zealand EEZ, any foreign jurisdiction, or any area governed by an RFMO; and when returning to port.

24. New Zealand flagged vessels are also required by high seas fishing permit conditions to complete catch and effort returns that must be submitted to the Ministry of Fisheries at the end of each trip.

25. When fishing in an area that is governed by an RFMO where more detailed or frequent catch and effort reporting is required, New Zealand flagged vessels are required to meet those requirements e.g. within the CCAMLR Area, catch and effort reporting is required every 5 days.

Observers

26. Under high seas fishing permit conditions, the Ministry of Fisheries retains the ability to place an observer on any New Zealand flagged vessel fishing on the high seas. There are certain circumstances when the Ministry of Fisheries will decide to place an observer on a vessel, such as when a permit holder intends to fish within the New Zealand EEZ and on the high seas on the same trip.

27. When fishing in an area that is governed by an RFMO where observer(s) are required, New Zealand flagged vessels are required to meet those requirements, e.g. New Zealand flagged vessels fishing within the CCAMLR Area are required by AMLR permits to carry two observers at all times.

Vessel markings

28. All New Zealand flagged vessels must be marked in accordance with the Fisheries (Commercial Fishing) Regulations 2001 and the conditions of high seas fishing permits. This includes a requirement for all New Zealand flagged vessels fishing on the high seas to be clearly marked with the vessel's international radio call sign.

Vessel inspection

29. All New Zealand flagged vessels must be inspected by a Ministry of Fisheries fishery officer prior to leaving port to fish on the high seas unless a specific exemption is obtained from the Chief Executive of the Ministry of Fisheries.

Landing and transshipment

30. Each landing of fish caught on the high seas by a New Zealand flagged vessel at a New Zealand port must be supervised by a Ministry of Fisheries fishery officer or observer, unless otherwise advised. No fish may be landed to a port outside New Zealand fisheries waters without the prior written approval of the Chief Executive of the Ministry of Fisheries.

31. Each transshipment of fish caught on the high seas by a New Zealand flagged vessel that occurs within New Zealand fisheries waters must be supervised by a Ministry of Fisheries fishery officer or observer, unless otherwise advised. No fish may be transhipped while in a port or on a trip, either to, or from the vessel, whether on the high seas or otherwise, without the prior written approval of the Chief Executive of the Ministry of Fisheries. In general, New Zealand flagged vessels are not allowed to tranship fish caught from within the CCAMLR Area.

Other Countries' EEZs

32. This section describes the legal provisions that control New Zealand flagged vessels and New Zealand nationals when fishing in other countries' EEZs.

General provisions

33. Under the Fisheries Act, any New Zealand national or person using a New Zealand flagged vessel to take or transport fish in the national jurisdiction of another country must do so in accordance with the laws of that jurisdiction.

NOT FOR QUOTATION

34. Contravention of this provision can result in a penalty of up to NZD 250 000 and forfeiture of the fish (or proceeds from the sale), fishing gear and the vessel to the Crown. If a person is convicted more than once within 7 years for specified serious offences such as this, the “banning provision” applies for a period of 3 years. A person’s high seas fishing permit may also be suspended or revoked if the permit holder has been convicted of a fishery-related offence under the laws of a country other than New Zealand.

Provisions for other countries’ EEZs within areas subject to RFMOs

35. If the foreign jurisdiction falls within an area covered by an RFMO to which New Zealand is a member, New Zealand nationals and people using New Zealand flagged vessels are required to obtain and comply with an authorisation from the coastal state. They are also required to comply with any specific New Zealand legislation that implements the obligations of that RFMO in foreign EEZs.

36. At present, CCAMLR is the only organisation to which New Zealand is a member that manages fisheries within areas of national jurisdiction and has licensing requirements for those areas. To fish in national jurisdictions within the CCAMLR Area, New Zealand citizens and people using New Zealand flagged vessels are required to obtain a permit from the Minister of Fisheries in accordance with the Antarctic Marine Living Resources (AMLR) Act 1981. A permit issued under the AMLR Act incorporates the obligations of CCAMLR Conservation Measures. Fishing in the CCAMLR Area without an AMLR permit can result in a penalty of up to NZD 250 000. Breaches of AMLR permit conditions can result in a penalty of up to NZD 100 000.

Requirements on fishing in other countries’ EEZs

37. Under the Fisheries Act, New Zealand nationals or people using a New Zealand flagged vessel to take or transport fish in the national jurisdiction of another country must do so in accordance with the laws of that jurisdiction. New Zealand fisheries legislation does not impose any further requirements on New Zealand nationals or New Zealand flagged vessels fishing in other countries’ EEZs, apart from the following:

- If the vessel is registered under the New Zealand Fishing Vessel Register, it is required to carry and operate VMS at all times; and
- If the foreign EEZ falls within an area covered by an RFMO to which New Zealand is a member, New Zealand imposes the requirements of the RFMO on New Zealand nationals and people using New Zealand flagged vessels (e.g. New Zealand flagged vessels fishing within a foreign EEZ within the CCAMLR area are required to submit catch and effort reports to the New Zealand Ministry of Fisheries during the trip).

b) Fishing activities by foreign vessels within EEZ

38. Foreign flagged vessels fishing in the New Zealand EEZ fall into two categories: vessels fishing under a charter arrangement with a New Zealand company, and vessels fishing under a foreign licensed access arrangement.

Vessels fishing under charter arrangements

39. There are currently 48 foreign flagged vessels registered on the New Zealand Fishing Vessel Register and fishing in the New Zealand EEZ under charter arrangements with New Zealand companies¹¹.

¹¹ A total of 1568 vessels are currently registered on the New Zealand Fishing Vessel Register.

While fishing within the New Zealand EEZ, these vessels operate under the same conditions as New Zealand flagged fishing vessels.

40. Foreign flagged vessels fishing under charter arrangements with New Zealand companies within the New Zealand EEZ operate under much the same requirements as New Zealand flagged vessels. These include:

- Operation of VMS;
- Catch and effort reporting;
- Vessel marking requirements;
- Control of landings (such as requirement to land only to licensed fish receivers);
- Control of transshipment;
- Carriage of observers (at the discretion of the Ministry of Fisheries); and

Vessel inspections are made (at the discretion of the Ministry of Fisheries).

41. The only difference is that *all* foreign flagged charter vessels fishing within the New Zealand EEZ are required to operate VMS at all times.

42. Measures to address illegal fishing activities by foreign flagged vessels and fishers fishing under charter arrangements with New Zealand companies within the New Zealand EEZ are largely the same as for New Zealand flagged vessels. The only exception is that foreign persons cannot be imprisoned for offences under the Fisheries Act, and instead, may face larger financial penalties for offending.

43. A person using a foreign flagged charter vessel to fish illegally within the New Zealand EEZ can face penalties of up to NZD 500 000 (depending on the offence) and the fish (or proceeds from the sale), fishing gear and the vessel may also be forfeit to the Crown. If a person is convicted more than once within 7 years for specified serious offences, the “banning provision” applies for a period of 3 years.

Vessels fishing under foreign licensed access arrangements

44. Provisions for foreign licensed fishing access to the New Zealand EEZ by foreign flagged vessels are set out in Part 5 (Foreign Licensed Access) of the Fisheries Act and in the Fisheries (Foreign Fishing Vessel) Regulations 2001. These include provision for the issue of foreign fishing licenses. Foreign fishing license fees vary depending on the species of fish that is being targeted.

45. The only vessels that currently fish in the New Zealand EEZ under a foreign licensed access arrangement are US vessels fishing pursuant to the Multilateral Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (US Tuna Treaty). Under the terms of the US Tuna Treaty, US purse seine vessels are entitled to fish in New Zealand EEZ subject to certain conditions. US purse seine vessels must hold a regional fishing license issued by the Forum Fisheries Agency (the treaty administrator), as well as a New Zealand foreign fishing licence, to fish within the New Zealand EEZ. These licences set out the terms and conditions under which such fishing activity must occur (consistent with the Treaty). Fees are paid as set out in the provisions of the US Tuna Treaty and the Fisheries (Foreign Fishing Vessel) Regulations 2001.

46. Currently there are no other foreign licensed access arrangements allowing foreign flagged vessels to fish in the New Zealand EEZ.

47. The responsibilities of foreign flagged vessels fishing in the New Zealand EEZ under the US Tuna Treaty are set out in the provisions of the US Tuna Treaty.

NOT FOR QUOTATION

48. A person using a foreign flagged vessel operating under a foreign licensed access arrangement, including under the US Tuna Treaty, who commits an offence within the New Zealand EEZ, can face penalties of up to NZD 500 000 (depending on the offence) and the fish (or proceeds from the sale), fishing gear and the vessel may also be forfeit to the Crown. The Minister of Fisheries also has the discretion to suspend or revoke the foreign fishing license for an offence, or if a fisheries-related administrative penalty is not paid within the time limit. If a person is convicted more than once within 7 years for specified serious offences such as a breach of a foreign fishing license, the “banning provision” applies for a period of 3 years.

49. In the case of illegal fishing activities by US Tuna Treaty vessels in the New Zealand EEZ, there is scope under the Treaty for any enforcement action to be taken by the US rather than by New Zealand.

50. In 2000, a US Tuna Treaty vessel that was authorised to fish within the New Zealand EEZ was caught fishing within a closed area. The offending was reported to the treaty administrator, the Forum Fisheries Agency, by the regional observer on board the vessel. New Zealand officials investigated the incident and provided evidence of the offending to the US authorities. The US authorities then took enforcement action.

c) *Registration of fishing vessels*

Rules and regulations of Vessel registration

51. There are two registration processes in New Zealand for fishing vessels:

- Registration on the New Zealand Ships Register under the Ship Registration Act 1992, and
- Registration on the New Zealand Fishing Vessel Register under the Fisheries Act 1996.

52. Registration on the New Zealand Ships Register allows a vessel to become a New Zealand flagged vessel, but it is not sufficient to allow a vessel to fish. For a New Zealand flagged vessel to fish, the vessel must also be registered on the New Zealand Fishing Vessel Register. For a foreign flagged charter vessel to fish in New Zealand fisheries waters¹², registration on the New Zealand Fishing Vessel Register is required (but not on the New Zealand Ships Register).

New Zealand Ships Register under the Ship Registration Act 1992

53. The following vessels must be registered on the New Zealand Ships Register:

- All New Zealand-owned ships exceeding 24 metres operating within New Zealand jurisdiction
- All New Zealand-owned ships, regardless of length, operating in areas outside New Zealand jurisdiction.

¹² Under the Fisheries Act 1996, ‘New Zealand fisheries waters’ is defined as –

- (a) All waters in the exclusive economic zone of New Zealand:
- (b) All waters of the territorial sea of New Zealand:
- (c) All internal waters of New Zealand:
- (d) All other fresh or estuarine waters within New Zealand where fish, aquatic life, or seaweed that are indigenous to or acclimatised in New Zealand are found:

54. To be a “New Zealand-owned ship” the ship must be majority owned by New Zealand nationals¹³.

55. Foreign owned ships on demise charter to New Zealand-based operators are entitled to be registered on the New Zealand Ships Register.

56. To register a ship on the New Zealand Ships Register, evidence of current and previous ownership must be provided. This includes evidence of all ownership changes from the builder to the current owner, or, if the ship was previously registered in another country, evidence of all ownership changes from the last registered owner overseas to the current owner.

57. Other documents must be provided when applying for registration on the New Zealand Ships Register such as the Builder’s Certificate, International Tonnage Certificate, and if applicable, a certified transcript of any previous overseas registration and evidence that the registration has been closed. For demise charter ships, a copy of the charter agreement must be provided. If the owner does not reside in New Zealand or does not have a registered office in New Zealand, they must appoint a representative person in New Zealand.

58. Once the required information is provided to the Registrar of Ships, the certificate of registry is issued in respect of the ship.

New Zealand Fishing Vessel Register under the Fisheries Act 1996

59. To fish in New Zealand fisheries waters or on the high seas, New Zealand flagged vessels must be registered on the New Zealand Fishing Vessel Register. The same applies to foreign flagged charter vessels fishing in New Zealand fisheries waters.

60. For New Zealand flagged vessels where the operator¹⁴ of the vessel is not an overseas person, registration of a vessel on the Fishing Vessel Register is simply an administrative process that is carried out by the Ministry of Fisheries once all of the required information is received. The information required for registration includes owner and operator details, vessel details, and information on fish processing and storage, fishing methods and navigation/communication equipment.

¹³ Under the Fisheries Act 1996, ‘New Zealand national’ is defined as – a New Zealand citizen; or a body corporate incorporated under the law of New Zealand under the Charitable Trusts Act 1957; or the Executive Government of New Zealand.

¹⁴ Under the Overseas Investment Act 1973, ‘Overseas person’ is defined as —

- (a) Any person who is not a New Zealand citizen and who is not ordinarily resident in New Zealand;
- (b) Any company or body corporate that is incorporated outside New Zealand, or any company within the meaning of the Companies Act 1955 or the Companies Act 1993, as the case may be, that is, for the purposes of the Companies Act 1955 or the Companies Act 1993, a subsidiary of any company or body corporate incorporated outside New Zealand;
- (c) Any company within the meaning of the Companies Act 1955 or the Companies Act 1993, as the case may be, or building society, in which—
 - (i) Twenty-five percent or more of any class of shares is held by any overseas person or overseas persons; or
 - (ii) The right to exercise or control the exercise of 25 percent or more of the voting power at any meeting of the company or building society is held by any overseas person or overseas persons;
- (d) Any nominee of an overseas person, whether or not the nominee is also an overseas person;

NOT FOR QUOTATION

61. For foreign flagged charter vessels and for New Zealand flagged vessels where the operator of the vessel is an overseas person, registration of a vessel on the Fishing Vessel Register is a more complex process requiring specific consent from the Chief Executive of the Ministry of Fisheries. As well as the information listed above, details on the vessel crew and of an authorised agent in New Zealand (who must be a New Zealand resident) must be provided to the Ministry of Fisheries. In making the decision whether or not to register the vessel, the nature of the charter or other agreement with the operator is considered. The previous offending history in relation to fishing or transportation (whether within the national fisheries jurisdiction of New Zealand or another country, or on the high seas), of the vessel's owner, operator, foreign charterparty, notified user, master, or crew is also considered.

62. There may be conditions of registration or Chief Executive consent that the operator of the vessel is required to comply with.

Restrictions on offending history vessels*New Zealand flagged vessels*

63. When registering a vessel on the New Zealand Ships Register (i.e. to become a New Zealand flagged vessel), there is no consideration given to previous offending history. As described above however, registration on the New Zealand Ships Register alone does not allow fishing to be carried out.

Fishing in New Zealand fisheries waters

64. Previous offending history is considered when registering a New Zealand flagged vessel on the Fishing Vessel Register only if the operator is an overseas person. When registering a New Zealand flagged vessel on the Fishing Vessel Register when the operator is not an overseas person, and when applying for a permit to fish within New Zealand fisheries waters, there is no consideration given to previous offending history.

65. If a person provides false or misleading information under the Fisheries Act however, their fishing permit can be revoked. If a person is convicted more than once within 7 years for specified serious offences, such as fishing without a fishing permit, breaching fishing permit conditions, using an unregistered vessel, or unlawfully disposing of fish, the "banning provision" applies for a period of 3 years.

Fishing on the high seas

66. For a New Zealand flagged vessel to fish on the high seas, a high seas fishing permit is required. When making a decision whether to issue a high seas fishing permit, there are certain circumstances in which a high seas fishing permit application must be declined, as follows:

- If the applicant has engaged in fishing or transportation in a manner that undermined the effectiveness of international conservation and management measures, and that resulted in a high seas fishing permit, or an equivalent authorisation granted by a participating state or a party to the FAO Compliance Agreement, being suspended or revoked during the 3 years immediately preceding the application (the 3-year period); or
- If the applicant has engaged in fishing or transportation on the high seas during the 3-year period without a high seas fishing permit (or equivalent authorisation granted by a participating state), if a high seas fishing permit was required for that fishing or transportation, and in a manner that undermined the effectiveness of international conservation and management measures.

67. Other offending history in relation to fishing or transportation, of the vessel's owner, operator, foreign charterparty, notified user, master, or crew is also considered by the Chief Executive of the Ministry of Fisheries when making high seas fishing permit decisions, and can result in an application being declined.

68. If a person commits a high seas fishing related offence, the Chief Executive of the Ministry of Fisheries has the discretion to suspend or revoke the high seas fishing permit. If a person is convicted more than once within 7 years for specified serious offences, such as using a New Zealand flagged vessel to fish on the high seas without a high seas fishing permit, the "banning provision" applies for a period of 3 years.

69. Offending history is also considered when deciding whether to issue permits to fish in areas covered by RFMOs, such as the CCAMLR Area. If the vessel's owner, operator, foreign charterparty, master, or crew has knowingly engaged in illegal fishing activities, depending on the magnitude of the offending, the application could be declined.

Foreign Flagged Vessels

Charter Vessels

70. An application to register a foreign flagged charter vessel on the New Zealand Fishing Vessel Register is subject to consideration of offending history of the vessel's owner, operator, foreign charterparty, notified user, master, or crew. The Chief Executive of the Ministry of Fisheries has the discretion to decline the application for registration on the basis of offending history and the vessel would therefore be unable to fish within New Zealand fisheries waters. When applying for a permit to fish within New Zealand fisheries waters no consideration is given to previous offending history.

71. If a person provides false or misleading information under the Fisheries Act, their fishing permit can be revoked. If a person is convicted more than once within 7 years for specified serious offences, such as fishing without a fishing permit, breaching fishing permit conditions, using an unregistered vessel, and unlawfully disposing of fish, the "banning provision" applies for a period of 3 years.

Other Foreign Flagged Vessels

72. An application for a foreign fishing license is subject to consideration of offending history of the vessel's owner, operator, master, or crew and may result in the application being declined. For US Tuna Treaty vessels in particular, a vessel must be a vessel of good standing on the regional register of foreign fishing vessels maintained by the Forum Fisheries Agency to be able obtain a regional fishing license.

Rules on ownership

New Zealand Ships Register under the Ship Registration Act 1992

73. The only vessels that are entitled to be registered on the New Zealand Ships Register are vessels that are majority owned by New Zealand nationals, and foreign owned vessels operating under demise charter arrangements with New Zealand operators.

74. When applying to register a ship on the New Zealand Ships Register, if ownership, or in the case of foreign charter vessels – the operator, cannot be verified as a New Zealand national, the certificate of registry will not be issued.

NOT FOR QUOTATION

New Zealand Fishing Vessel Register under the Fisheries Act 1996

75. In most cases, vessels registered on the New Zealand Fishing Vessel Register are owned and operated by New Zealand nationals.

76. If a vessel is owned or operated by an overseas person, specific consent from the Chief Executive of the Ministry of Fisheries is required for the vessel to be registered on the New Zealand Fishing Vessel Register. In this case, the fishing company or individual seeking to register the vessel must nominate an authorised agent who is a New Zealand resident for the service of summons in respect of fisheries offences. This ensures that individuals cannot avoid enforcement action should they act in contravention of New Zealand legislation.

Measures against reflagging/ flag hopping

77. Governmental permission is not required to reflag New Zealand flagged vessels to alternative registries. Reflagging is seen as a legitimate activity where a genuine link exists, often driven by economic imperatives. This places responsibility on the state in which the vessel is seeking registry as opposed to the state where the vessel is currently registered.

78. As noted above, there are no specific measures to prevent flag hopping. However all New Zealand owned vessels must be registered on the New Zealand Ships Register and there must be a genuine link between the vessel owner or operator and New Zealand. This in itself prevents flag hopping.

2. Economic measures***a) Investment rules******Inward investment rules***

79. New Zealand has inward investment rules on the ownership of vessels as well as the ownership of fishing quota.

Fishing Vessel Ownership

80. To be deemed a New Zealand-owned vessel and eligible for registration on the New Zealand Ships Register, the following ownership provisions apply:

- 1) A ship is deemed to be New Zealand-owned if :
 1. It is owned by a New Zealand national or New Zealand nationals, and no other person; or
 2. It is owned by 3 or more persons as joint owners (otherwise than as described in paragraph (c) of this subsection), and the majority of those persons are New Zealand nationals; or
 3. It is owned by 2 or more persons as owners in common, and more than half of the shares in the ship are owned by 1 or more New Zealand nationals.
- 2) For the purposes of subsection (1)(c) of this section, where 2 or more persons are joint owners of any number of shares in the ship the following provisions shall apply:

NOT FOR QUOTATION

1. In the case of 2 or more particular shares that are owned by the same persons, the interest of each owner in those shares shall be ascertained by dividing the number of shares by the number of owners of the shares:
2. In the case of a share to which paragraph (a) of this subsection does not apply, the interest of each owner in the share shall be ascertained by dividing the number 1 by the number of owners of the share:
3. If the sum of the interests so ascertained in respect of all jointly-owned shares in the ship as being interests of a New Zealand national or New Zealand nationals is a whole number or a whole number and a fraction, such number of shares as is equal to that whole number shall be deemed to be owned by a New Zealand national or New Zealand nationals.

81. If the vessel does not meet the above criteria or is not a foreign owned vessel operating under a demise charter arrangement with a New Zealand operator, the vessel cannot be registered under on the New Zealand Ships Register.

82. It is possible for foreign owned vessels to be legitimately registered on the New Zealand Fishing Vessel Register, although in these circumstances, specific consent is required from the Chief Executive of the Ministry of Fisheries and any previous offending history is considered in any decision.

Quota Ownership

83. The majority of New Zealand commercial fisheries are managed under a quota management system based on Individual Transferable Quota (ITQ). While there is foreign investment in New Zealand fishing companies, there are limits on the degree of foreign ownership of companies that own fishing quota. A company that owns New Zealand fishing quota may be up to 24.9% foreign owned and the remainder of the company must be owned by New Zealand nationals.

84. There are provisions in the Fisheries Act that allow for more than 24.9% foreign ownership of a company that owns New Zealand fishing quota. In this case however, specific permission is required from the Overseas Investment Commission. In granting this permission, the Overseas Investment Commission considers matters such as the character of the foreign individual(s) and whether granting of the permission is in New Zealand's national interest.

Outward investment rules

85. There is only one rule that may impose restrictions on the ownership of foreign flagged fishing vessels by New Zealand nationals - that is a requirement that no New Zealand national may *use* a foreign flagged vessel to take or transport fish on the high seas unless they have an authorisation to do so issued by a state meeting one of the following criteria:

- A state that is a party to the UN Fish Stocks Agreement; or
- A state that is a party to the FAO Compliance Agreement; or
- A state that is a party to, or has accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement to which the authorisation relates; or
- A state that:
 - Is a signatory to the UN Fish Stocks Agreement; and
 - Are legislative and administrative mechanisms to control its vessels on the high seas in accordance with that Agreement.

NOT FOR QUOTATION

86. While *use* of a vessel does not necessarily always imply *ownership* of a vessel, this rule does restrict ownership of fishing vessels for use on the high seas by New Zealand nationals to those flagged to responsible fishing states.

87. There are no other investment rules in New Zealand that impose restrictions on ownership of foreign fishing vessels by New Zealand nationals.

b) *Trade rules (including trade-related rules)*

88. New Zealand imposes trade measures consistent with its obligations under RFMOs. New Zealand has fully implemented the CCAMLR Toothfish Catch Documentation Scheme and the CCSBT Trade Information Scheme.

89. New Zealand has also implemented trade information schemes complimentary to the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Inter-American Tropical Tuna Commission (IATTC) schemes in respect of tuna and swordfish exported to ICCAT and IATTC member countries.

c) *Rules regarding landing, transshipments and marketing*

90. To land fish caught on the high seas or in another jurisdiction from a foreign flagged vessel at a New Zealand port, an approval from the Chief Executive of the Ministry of Fisheries is required. Approval must be sought prior to the start of the fishing trip and a fee must be paid. The approval is issued subject to conditions.

91. In most cases the approval requires the vessel to carry and operate a New Zealand Ministry of Fisheries Type-approved Automatic Location Communicator at all times during the trip. Other conditions apply such as a requirement to submit catch and effort reports to the Ministry of Fisheries; notification to Ministry of Fisheries of entry into /departure from the New Zealand EEZ; a prohibition on fishing within New Zealand fisheries waters; supervised landings; requirement to land or dispose of fish only to licensed fish receivers; and compulsory vessel inspection. The master of the vessel must give the Ministry of Fisheries at least 72 hours warning of the intention to bring the vessel into internal waters.

92. If the Chief Executive of the Ministry of Fisheries is satisfied that a foreign flagged vessel entering New Zealand fisheries waters with fish on board has undermined international conservation and management measures, the vessel may be directed not to enter the internal waters of New Zealand. If such a vessel enters New Zealand internal waters after being instructed not to, the master could be liable to a penalty of up to NZD 100 000 and the fish (or proceeds from the sale), fishing gear and the vessel may also be forfeit to the Crown. If a person is convicted more than once within 7 years for specified serious offences such as this, the “banning provision” applies for a period of 3 years.

93. In addition to the above measures, New Zealand also implements any other requirements consistent with its obligations under RMFOs. For example, all vessels carrying toothfish that enter New Zealand ports must be inspected and if there is evidence that the vessel has fished in contravention of CCAMLR Conservation Measures or if the fish is not accompanied by a valid CCAMLR Catch Document, the landing is prohibited.

d) *Penalties, fees and restrictions to GFTs*

94. Under New Zealand fisheries legislation, all nationalities, including New Zealanders, are subject to the same penalties, with the exception that foreign persons cannot be imprisoned.

95. The fees for activities of foreign flagged vessels in New Zealand fisheries waters are as follows:

- Foreign fishing license – fee depends on the species of fish to be targeted
- Approval to possess fish caught outside New Zealand fisheries waters within New Zealand fisheries waters on a vessel that is not a New Zealand Ship – NZD 190
- Other fees apply for activities such as observer-monitored unload, however these are not specific to foreign flagged vessels.

96. The New Zealand Government does not subsidise the New Zealand fishing industry in any way and actually cost recovers the cost of fisheries services from the fishing industry, e.g. cost of commercial fisheries research.

3. Other measures (including moral /ethical)

97. Examples of non-economic and social mechanisms that discourage engagement in IUU fishing activities in New Zealand include:

- Increased media (including newspaper, television, radio) coverage of IUU fishing issues and incidents, e.g. coverage of New Zealand Prime Minister on New Zealand fisheries surveillance flight to the Ross Sea, Antarctica
- Weekly programme on national television featuring New Zealand fisheries officers undertaking fisheries surveillance around New Zealand coastline
- Increased public awareness of IUU fishing and its associated problems
- Increased pressure from environmental NGOs to address IUU fishing and its associated problems
- Increased awareness of fishing industry of IUU fishing and its associated problems
- Promotion of responsible fishing practices by New Seafood Industry Council Ltd (an organisation that represents the New Zealand fishing industry and provides advice to Government and the industry on sound fisheries management policies and practices)
- Participation of New Zealand fishing companies in international organisations with a focus on mitigating IUU fishing such as COLTO (Coalition of Legal Toothfish Operators)

NOT FOR QUOTATION

NORWAY**1. Legal measures & regulations**

1. Combating IUU/FOC fishing activities has been a major focus for Norwegian Fishing Authorities for several years. Norway has been one of the initiators behind the current focus on combating IUU fishing activities in CCAMLR, FAO and IMO. Subjects have been to establish an international "Black list" of fishing vessels that have participated in IUU fishing activities, ban IUU landings globally, impede trade in IUU catches to avoid it entering the market and problems concerning ensuring a the "genuine link" between the vessel and the state whose flag it flies.

a) Fishing activities by national vessels

2. The Norwegian Act relating to Sea-water Fisheries, which among other things empowers the Ministry of Fisheries to establish measures concerning Norwegian flagged vessels in combating IUU fishing, is applicable in waters under Norwegian jurisdiction, in waters under national fisheries jurisdiction of a foreign State and on the high seas.

3. It is prohibited to carry out fishing operations on the high seas without first obtaining authorization to register the fishing vessel with the Directorate of Fisheries. Such registration is valid for one calendar year. There are reporting requirements in place, including the maintenance of a logbook. Further all fishing vessels above 24 meters in length are obliged to carry VMS. The vast majority of Norwegian vessel operating on the high seas do this in areas governed by RFMOs, and are thus obliged to fish in accordance with the applicable measures established by a particular RFMO.

Example: Norwegian authorities withdraw the permit to fish in the CCAMLR-area for a Norwegian registered vessel, because the owner - a shipping company - behind the vessel previously had extensively violated fisheries regulations.

b) Fishing activities by foreign vessels within EEZ

4. Norway has an extensive system of agreements with other states and a large licensing program for foreign vessels, with approximately 1 200 licenses granted annually.

5. Foreign vessels have the duty to report to the Directorate of Fisheries concerning their activities (entry, weekly catch, exit and transshipment), including the maintenance of a logbook. All foreign vessels above 24 meters are obliged to carry VMS. When a vessel discontinues fishing operations and plans to leave Norwegian waters, it shall present itself at one of special designated control points for a possible check by the Coast Guard. If the vessel is landing in a Norwegian port, the inspection will take place there. The Norwegian national fleet has similar obligations.

6. For all foreign fishing vessels a licence (or permit) is required. A vessel that contravenes the applicable legislation is liable to a fine. Further the vessel used and its fittings, any catches onboard and gear may be confiscated (instead of any object, its value may be confiscated). The licence may also be withdrawn and refused in future years.

Example: When a vessel, or the vessels owner, has either participated in IUU-fishing on the High seas, or has violated rules set by a RFMO, the vessel do not get the necessary permissions, concessions etc. that is required to be a Norwegian flagged fishing vessel.

c) Registration of fishing vessels

7. Before a vessel can be used for commercial fishing, the owner has to obtain a licence from the fisheries authorities. Such a licence can be granted only to Norwegian citizens or likewise. Further special licences are required in order to carry out specific fishing operations such as for example trawling, purse-seining etc. When a vessel is granted a licence, information concerning the vessel (name, radio call sign, tonnage, capacity, length etc.) shall be entered into a register of fishing vessels. A fishing vessel cannot be included into the Norwegian shipping register unless a licence is issued by the fisheries authorities.

8. In an attempt to target IUU fishing activities Norway has established a regulation stating that authorisation to fish in Norwegian waters may be denied if the vessel in question, or its owner, has participated in an IUU fishing activity. This means that a vessel may be denied authorisation to fish in Norwegian waters also if it is operated by others than those who participated in the unregulated fishery concerned. A "Black list" of such vessels has been established. As this has reduced the second-hand market value of the vessel that has participated in IUU fisheries, it has proved to be an effective tool in combating IUU fishing activities.

9. A licence can be granted only to Norwegian citizens or likewise (i.e. limited liability companies and other companies with limited liability, if the head office and the seat of the board are in Norway; the state, facilities and funds administered by the state, and Norwegian municipalities).

10. For reflagging of national flagged fishing vessels to alternative registries outside Norway, a permission is required if a particular vessel has been involved in schemes for adjustment of fishing capacity.

11. No other measures are in place to prevent flag hopping, but if a vessel is removed from the register a new licence will be required in accordance with the rather rigorous regulations as outlined above.

2. Economic measures

a) Investment rules

12. According to the Act of 26 March 1999 No. 15 relating to the right to participate in fishing and hunting at least 50% of the share capital must be held by so-called "active" fishermen, i.e. working as a professional fisherman on a Norwegian fishing vessel for at least 3 of the 5 last years and is still working within the fishing industry. Given that this requirement is met, only the following may acquire ownership to Norwegian fishing vessels:

3. Norwegian nationals and persons who are resident in Norway,
4. limited companies and other organisational forms with limited liability, if the head office and the seat of the board are in Norway, and the board consists of Norwegian nationals who are resident and are shareholders or unit holders, and at least six tenths of the share capital or limited partnership capital is owned by Norwegian nationals,
5. the state, facilities and funds administered by the state, and Norwegian municipalities.

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13. In special cases where companies are engaged in Norway's fish processing industry, foreigners may be allowed to hold more than 40% of the share capital of a fishing vessel if the vessel is in direct conjunction with a processing unit.

14. Norway has no specified rules regarding Norwegian resident investment in foreign fishing vessels. However, both Norwegian industry organisations and the government have established recommended ethical guidelines for companies and affiliates that perform foreign investment. In general, it is expected by the general opinion in Norway that both public and private sector investments are based on an ethically sound foundation.

b) Trade rules (including trade-related rules)

15. As a member of CCAMLR, Norway has implemented the catch documentation scheme for Patagonian toothfish.

c) Rules regarding landing, transhipments and marketing

16. There is a prohibition against landing of IUU catches taken in Norwegian waters, in waters of another State and on the high seas. Norwegian authorities may also deny access to its ports in special circumstances.

d) Penalties, fees and restrictions to GFTs

17. A vessel (Norwegian or foreign) that has contravened the applicable legislation is liable to a fine. Further the vessel used and its fittings, any catches onboard and gear may be confiscated (instead of any object, its value may be confiscated).

18. All foreign vessels fish in Norwegian waters on a reciprocal bilateral arrangement with other States and are not subject to fees.

19. Governmental support to the shipbuilding industry in relation to building of fishing vessels can only be granted if the vessel is to be flying the flag of a party to the 1995 UN Fish Stocks Agreement.

3. Other measures (including moral /ethical)

20. At the initiative of the Norwegian Fishermen Association and the Norwegian Federation of Fish and Aquaculture a project that focuses on ethics among people engaged in fisheries has been initiated. The project will focus on giving the fishermen an ethical focus as to resource utilization, towards your fellow fishermen, buyers and other stakeholders etc. The project is co-financed of public and private sector funds. The initiative seeks to explore the possibilities of establishing a certificate for fishermen and/or fishing vessels that comply with a set of ethical standards, providing them "preferred customer status".

21. As of January 2003 the Norwegian Government and the various industry organizations have signed a co-operation agreement on how to fight illegal activities. Following the agreement, a forum for discussing these issues has been established.

POLAND**Introduction**

1. Poland took an active role in elaboration of IPOA/IUU and has regulations in place to prevent IUU fishing by Polish vessels. From 1 May 2004 Poland will become a member of the European Community and will have to apply EU regulations on this matter.

1. Legal measures & regulations**a) *Fishing activities by national vessels***

2. All vessels above 10m length flying the Polish flag (regardless of the fishing area) have to be registered in the Polish Fishing Vessels Register and carry on board:

- valid fishing license,
- valid special fishing permit,
- be equipped with VMS system (so far only vessels above 18m length) and report every 2 hours its position to the relevant monitoring centre, while on fishing trip.

3. A fishing license can be invalidated when:

- vessel was withdrawn from the Polish Fishing Vessels Register,
- owner of the vessel was sentenced by the court for committing an offence with use of fishing vessel,
- was caught in last two years for the second time fishing during closed season or in closed areas.

4. All Polish vessels fishing outside Polish EEZ have to strictly adhere to the regulations of Regional Fisheries Bodies like NEAFC, NAFO, and CCAMLR.

5. In recent years, there have been no infringements committed by Polish vessels fishing outside Polish EEZ.

b) *Fishing activities by foreign vessels within EEZ*

6. Foreign fishing vessels fishing in Polish EEZ have to apply regulations similar to those of Polish vessels and in accordance with a signed bilateral agreement. The fisheries administrations of foreign countries which vessels are allowed to fish in Polish EEZ have to provide a list of vessels authorised to fish under the Agreement. These vessels should report each entry and exit from Polish EEZ, as well as catch on board. They have to report their position by VMS in accordance with Polish requirements (every 2 hrs) and also provide information about daily catch and its composition.

7. There is no particular fee for foreign vessels fishing in Polish EEZ as in most cases they are fishing under exchange of quotas.

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c) *Registration of fishing vessels*

8. All vessels above 10m length flying the Polish flag (regardless of the fishing area) have to be registered in the computerised Polish Fishing Vessels Register. The regulations in force provide clear guidance regarding conditions and documents required for registration of fishing vessel. In principle these follow requirements of EU. There is also a clear obligation to provide details about the owner of the vessel as well as operator.

9. The Minister responsible for fisheries matters (Minister of Agriculture and Rural Development) may refuse to register the fishing vessel in case when it will exceed the fishing capacity of the fleet or its segment previously established.

10. There is however no special restriction regarding vessels with IUU fishing record as this never was a problem in relation to Polish vessels. There is also no need for governmental permission for reflagging of national flagged fishing vessel but in such case the owner has to request withdrawal of his vessel from Polish Register of Fishing Vessels.

2. *Economic measures***a) *Investment rules***

11. There are no government financial transfers for construction of new fishing vessels. However after 1 May 2004, a substantial amount of structural funds from the EU will be available for restructuring the Polish fisheries sector.

12. In the last two decades, Polish long distance fisheries practically ceased to exist. From 140 large factory trawlers operating on the high seas, only 6 remain in operation either in NEAFC/NAFO areas or under a joint venture with New Zealand.

13. In the case of the Baltic fleet, the structural funds will be used as a priority to reduce Polish fleet up to 40% of present tonnage. This should adjust the fishing capacity to the resources available.

b) *Trade rules*

14. Poland is party to CITES and subscribes to the regulations of this organisation. Also as a member of RFMOs, especially CCAMLR, Poland is obliged to apply agreed regulations of these organisations.

c) *Rules regarding landing, transshipment and marketing*

15. There are no specific rules prohibiting landing of fish in Polish ports by foreign vessels.

16. However in the case of vessels which are known to be engaged in IUU fishing, there are a number of possibilities/measures to make landing difficult or impossible. In the early 1990s, there were some foreign vessels engaged in Atlantic salmon IUU fishing trying to land its catch in Polish harbours. Acting upon a request from NASCO, port authorities successfully discouraged landing of IUU fish in our harbours.

d) *Penalties, fees and restrictions to GFTs*

17. There are provisions for penalties for offenders of fishery rules and regulations, including IUU fishing. They are up to – about EUR 20 000 for ship operator and EUR 8 000 for the captain of the vessel which committed the offense. These also apply to foreign vessels fishing in Polish EEZ.

3. Other measures (including moral/ethical)

18. IUU fishing on the high seas is not a problem for Polish vessels as they practically have not been involved in such activities, except for some problems of underreporting within our EEZ. Present regulations, strengthened MCS system, introduction of new log books, sales documentations as well as EU regulations of market for fish and fishery products help to eradicate the problem. For this reason present regulations do not address the matter of IUU fishing as such. As already mentioned, from 1 May 2004, Poland will become a Member of European Union and thus all rules of European Commission as well as provisions of the Common Fisheries Policy in relation to IUU fishing will have to be applied by Poland.

NOT FOR QUOTATION

PORTUGAL**1. Legal measures and regulations****a) *Fishing activities by national vessels***

1. As well as applying Community regulations on fishing activities outside the Portuguese EEZ, Portugal has instituted legal measures at national level such as licences to fish in specific zones with specified gear. These are authorised under Regulatory Decree No. 43/87 of 17 July 1987, amended by Regulatory Decree No. 7/2000 of 30 May 2000.

2. Fishing by Portuguese vessels in waters not subject to national sovereignty and jurisdiction is subject to European Union regulations and the provisions of Legislative Decree No. 383/98 of 27 November 1998 on the granting of fishing licences.

3. Order No. 14694/2003 of 29 July 2003 sets out the multi-annual criteria and conditions for licence renewal which, besides sea-worthiness and safety certificates, include proof of regular fishing activity, i.e. a minimum level of fishery product sales in the course of the previous year. This figure showing sales per vessel is then analysed using a special formula based on the number of fishers under contract (number of fishers x 12 x national minimum wage).

4. The Portuguese vessels engaged in fishing activities outside the national EEZ are those operating under fishery agreements and those operating on the high seas, in particular in areas regulated by regional fishery management organisations. These vessels must be fitted with a satellite-based continuous position monitoring system enabling them to be located at sea at any given time.

5. To our knowledge, no Portuguese fishing vessel has to date been identified as an IUU fishing vessel.

b) *Fishing activities by foreign vessels within EEZ*

6. The only fleet authorised to fish in the national EEZ is the Community fleet, in particular Spanish vessels which also fish in territorial waters under the bilateral agreements between Portugal and Spain, i.e. multipurpose vessels under the Gadiana and Minho agreements and seine-netters under the Minho agreement.

7. The prevailing Community regulations are applicable, as well as all the measures set out in domestic legislation, in particular on closed seasons when the fishing of certain species (e.g. bivalve molluscs) is prohibited; such measures are necessarily compatible with European Union rules.

8. The legal measures aimed at preventing illegal, unreported and unregulated fishing (IUU) by foreign fishing vessels are those laid down by Community regulations and by the domestic legislation, which also applies to Portuguese vessels.

9. Legislative Decree No. 92/96 of 12 July 1996 transposes into domestic legislation the provisions of Council Regulation (EEC) 2847/93 of 12 October 1993 establishing a control system for landings of fish by third-country vessels in national ports.

10. Council Regulation (EC) No. 2846/98 of 17 December 1998, amending Regulation No. 2847/93, introduces a new Title VIa on the monitoring of fishing activities by third-country vessels, setting out the duties of masters of fishing vessels from outside the EU.

11. The controls conducted by the relevant authorities with regard to landings by third-country vessels take place in two stages:

- First, the information required for an authorisation to land fish in a national port must be submitted no less than 72 hours before the landing operation takes place.
- Subsequently, the master of the vessel must submit a declaration providing information on the landing operation.

12. Under domestic regulations (LD 92/96), permission for a landing may be refused (Article 5, § 2) when there is sufficient proof that an activity undermines the conservation and management measures applying to international waters or a third country, and when there is some doubt as to the origin of the catch or the authenticity of the data submitted.

13. In this regard, Council Regulation (EC) No. 2846/98 specifies, in Article 28g, that the competent authorities shall authorise landing only if the species retained on board have been caught outside the areas regulated by any competent international organisations of which the Community is a member, or if those species come from those regulated areas and have been caught in compliance with the relevant conservation and management measures.

14. Domestic legislation makes it mandatory, under Article 3 (§1), to submit more detailed information to the authorities on landings in Portuguese ports, including a breakdown of catches by species, quantities and descriptions of the fish, the circumstances in which it was caught (location, date and gear used), as well as how it is to be marketed. The same Article (§5) also stipulates that the landings may not take place in the absence of national inspectors.

15. With regard to post-landing controls, Council Regulation (EC) No. 2846/98 specifies, in Article 28f, that masters of third-country vessels must submit, within 48 hours of landing, to the authorities of the Member State whose ports or landing facilities they use a declaration indicating the quantity of fishery products by species landed and the date and place of each catch.

16. The same Regulation also requires each Member State to forward to the Commission, at its request, information concerning landings by third-country fishing vessels.

17. Furthermore, domestic legislation stipulates that, once the landings have been completed, foreign vessels may be authorised to leave, provided the masters submit a declaration to the customs authorities, who then forward it to the Fisheries Inspectorate.

18. The duties of Member States regarding the control and taxation of landings by third-country vessels also stem from obligations towards the European Community by virtue of its commitments to international and regional fisheries management organisations that adopt control and compliance systems aimed at eliminating IUU fishing.

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19. The NAFO, NEAFC and ICCAT regulatory areas in which Community and in particular Portuguese vessels operate are examples of the many obligations to be met by the European Community and its Member States.

20. Besides the control schemes that institute information systems on fishing by the fleets of contracting parties in each regulatory area, regional fisheries management organisations (RFMOs) develop programmes to promote compliance with resource conservation measures by the vessels of non-contracting parties.

21. While the fleets of contracting parties to those RFMOs are under an obligation to comply with the recommendations they adopt, vessels flying the flags of non-members are under no obligation to comply.

22. As a Member State of the European Union, which is itself a contracting party to several regional fishery organisations such as NAFO, NEAFC, ICCAT, CCAMLR and IOTC, Portugal is responsible for the control and taxation of fishing activities engaged in by not only Community vessels but also third-country vessels suspected of harvesting regulated species without complying with current rules on conservation. It is to this end that controls are conducted on landings by foreign vessels in Portuguese ports.

23. Under the FAO's International Plan of Action to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing, Portugal is responsible, as a port State, for carrying out pre-landing controls and gathering information, and is authorised to prohibit landings by vessels suspected of engaging in IUU fishing, in co-operation with the authorities of the state in which the suspected vessels are registered.

24. Finally it should be pointed out that, under Community regulations, the European Commission has the right to request that Member States, at least once a year, include this information in their annual inspection reports.

c) Registration of fishing vessels

25. In Portugal, a vessel may be registered only if it is replacing a vessel over 10 years old which does not meet safety standards. However, the capacity of the new vessel is restricted in terms of tonnage and engine power, in line with Community regulations and specifications. In principle, the authorised fishing gear is identical to that of the vessel being replaced.

26. Under Legislative Decree No. 525/99 of 10 December 1999, the owners of fishing vessels exceeding 15 metres in overall length and harvesting species subject to quota must provide annual proof of a genuine link with Portugal.

27. This economic link must meet one of the following criteria:

- At least 50% of catches are landed in a Portuguese port, and a substantial share is sold locally;
- At least 50% of the vessel's crew live in a coastal area on Portuguese soil;
- At least 50% of fishing campaigns leave from a Portuguese port;
- Any combination of the above criteria, above a minimum of 50%.

28. Entries and exits of fishing vessels to and from the Register are not subject to prior authorisation.

29. However, fishing vessels belonging to joint ventures may only exit provided that there are guarantees they will comply with international law on resource management and conservation, and that they have the prior agreement of the authorities of the third country in which the joint venture is registered.

2. Economic measures

a) Investment rules

30. Legislative Decree No. 278/87 of 7 July (amended by Legislative Decree No. 383/98 of 27 November) sets out in Article 9 the criteria for authorising the chartering of foreign fishing vessels. Chartering is subject to prior authorisation by the Portuguese government official in charge of fisheries.

31. The chartering of a foreign vessel may be authorised provided that:

- It is for the temporary replacement of a vessel already approved for construction or alteration, and with identical fishing specifications;
- It is for the testing of new types of vessels or new fishing gear/techniques, or the exploration of new fishing grounds;
- Catches by the chartered vessel and the products processed from those catches are deemed to be of Portuguese origin.

32. The authorisation to charter foreign vessels is issued for a period not exceeding two years. The authorisation expires when the above conditions are no longer met (Legislative Decree No. 278/87, Article 9). Chartered vessels are subject to the legal provisions applying to national fishing vessels.

33. The chartering of national fishing vessels is also subject to prior agreement, for a renewable period of one year, by the Portuguese government official in charge of fisheries.

b) Trade rules (including trade-related rules)

34. Within the framework of the regional fisheries management organisations, some fisheries are tightly controlled to meet the conservation needs of stocks that are subject to considerable pressure from the fleets of not only contracting parties but also non-members. This is the case for ICCAT, which is restricting the fishing of certain species such as swordfish and bluefin tuna.

35. At the same time, and to discourage illegal fishing, systems are being put in place to monitor fishing activity by the vessels of non-contracting parties.

36. Observation reports on foreign vessels that may be unaware of current conservation measures are submitted to the RFMOs by their contracting parties.

37. The monitoring of these activities argues in favour of the adoption by RFMOs of trade measures against the relevant flag States to put an end to illegal fishing.

38. Such measures can take the form of trade restrictions and/or a ban on the landing of certain species, in the ports of contracting parties, by vessels flying the flags of specific third countries.

39. Catch documentation is another means of restricting illegal fishing. For imports and exports of Atlantic bluefin tuna, and recently swordfish and bigeye tuna, ICCAT now requires trade documents validated by government agencies.

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40. In December 2001 the IOTC adopted a trade documentation scheme for bigeye tuna, while the CCAMLR has set up a catch documentation scheme for toothfish. Under the latter, an assurance is required that the fish have been harvested in accordance with current conservation measures.

41. The measures adopted by RFMOs to protect resources at risk from overexploitation are helping to prevent illegal fishing and thereby eliminate a substantial share of the black market. At the same time, they encourage States that are not members of regional fishery management organisations to become contracting parties, or at least co-operative non-contracting parties.

42. Portugal complies with the catch documentation scheme and reports to the European Commission on imports and/or exports, in particular for the species regulated by ICCAT and IOTC. The Portuguese fleet does not operate in the CCAMLR's area of competence.

c) Rules regarding landing, transhipments and marketing

43. Measures relating to the landing and transhipment of fish by foreign vessels in Portuguese ports are set out in Legislative Decree No. 92/96 of 12 July 1996, amended by Legislative Decree No. 286/98 of 17 September 1998 and apply to all foreign vessels, regardless of whether they are suspected of engaging in IUU fishing.

d) Penalties, fees and restrictions to GFTs

44. Fishing by vessels from third countries is prohibited in waters subject to national sovereignty or jurisdiction.

45. All Community vessels enjoy the same right of access within the European Union's Exclusive Economic Zone, with the exception of waters within 12 sea miles of the baseline.

46. In Portuguese territorial waters, Spanish as well as Portuguese vessels may fish under bilateral agreements and a reciprocal access regime.

47. The penalties imposed in the event of failure to comply with national, Community and international rules are set out in Legislative Decree No. 383/98 of 27 November 1998.

48. Failure to comply is punishable by financial penalties, which vary with the gravity of the violation. Other penalties include the confiscation of fishing gear or fishery products and the suspension or withdrawal of fishing licences.

49. To be eligible for government support, vessels must be licensed in accordance with the criteria and conditions specified either by the government department in charge of the sector, or in Regulatory Decree No. 7/2000 (Article 74 A). Fishing licences are neither issued to nor renewed for vessels that are repeatedly left idle.

SPAIN

Additional information to this chapter can be found in the document submitted by the European Union.

Legal measures & regulations

1. In response to the International Plan of Action (IPOA-IUU), adopted by the international Community in FAO in 2001, Spain elaborated in November 2002 its **National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing** (NPOA).

2. By means of its National Plan of Action, Spain wishes to foster the following objectives:

- The management of fishing as a responsible economic activity in all its facets, from both a national and international perspective, on the basis of the conservation and sustainable use of resources and the responsible trading of fishery products.
- The maintenance of the perspective of the marine ecosystem, which involves addressing and regulating fishing operations in a manner that will reduce the non-target catches of other species.
- To consolidate and provide support for the fishing sector as a whole in the face of unfair competition deriving from illegal practices.

3. A concern for the social perspective of the problem, as a consequence of the risks befalling those crews that work on board vessels operating under flags of convenience, which do not respect the International Agreements that protect human life at sea

4. The approach of Spain's National Plan of Action is based on the objective and measures that according to the IPOA of FAO are to be implemented to prevent, deter and eliminate illegal, unreported and unregulated fishing in the different areas where the fishing activity takes place: resources, structures and markets.

5. Identification is made of the legal and administrative instruments available, by area of activity, on both a national and international basis.

a) Fishing activities by national vessels

6. The main body of legislation that Spain has in place dealing with fishing activities is **Law 3/2001, of 26 March, on Marine Fishing**, which applies to all national vessels, wherever they operate and to other countries' vessels in waters under Spanish sovereignty or jurisdiction.

7. This Act, in accordance with the European Common Policy and International Treaties and Agreements, confers to the State exclusive competency in matters involving the regulation of sea fishing and empowers it to lay down the basis of the legal system for the fisheries sector, pursuant to the provisions of the Spanish Constitution. Amongst its aims, it includes safeguarding the balanced and responsible exploitation of fishing resources, favouring their sustainable development, and adopting those measures necessary for protecting, preserving and generating said resources. It also lays down a system of

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offences and penalties in the area of marine fishing in external waters, management of the fishing sector and trade of fishing products.

8. Further to the Law on Marine Fisheries and in accordance with it, the following Regulations have already been established:

- **Royal Decree 1134/2002 of 31 October 2002, on the application of penalties to Spanish nationals employed on flag-of-convenience vessels**

9. Further to the Law on Marine Fisheries and in accordance with it, the objective of this Royal Decree is the development of the process for the application of the regulations regarding offences and penalties with regard to marine fisheries in external waters to physical and legal persons with Spanish nationality legally bound with vessels of third countries which do not comply with the obligations resulting from the conservation and management measures laid down in international law, when the flag State of such vessels does not exercise the authority to impose penalties corresponding to its jurisdiction.

10. It establishes, likewise, the necessary guarantees for preventing the import of catches from those vessels that have been held responsible for conducting activities of illegal fishing or contrary to the measures of conservation and management of the Regional Fisheries Management Organisations in their areas of control.

- **Royal Decree 176/2003, of 14 February, regulating control and inspection functions of the fishing activities:**

11. Also implementing the Law on Marine Fisheries, this regulation entails the control and inspection of all operations involved in fishing, from the system of licences and fishing permits, Fishing gears, Fishing grounds, Logbooks and landing declarations, through the marketing process, culminating with the consumer, in addition to all imports through all, sea, land and air channels.

- **Ministerial Order of 12 November 1988, wherein regulation is made in Spain of the vessel monitoring system by satellite.**

12. Implementation of the Vessel Monitoring System (VMS) by Satellite, which is applied on a permanent basis to Spanish fishing vessels (over 1 700 in 2002) that operate all the oceans of the world. Cutting-edge technologies and a sophisticated system of data processing that permit an efficient control of the vessels are used and, where appropriate, the issuing of sanctions for unlawful practices.

- **Royal Decree 2287/1998, of 23 October, whereby a definition is made of the criteria and conditions of the interventions with a structural purpose in the fisheries sector.**

13. This Royal Decree and those detailed in due course, stops vessels from being reflagged under flag of convenience states, considering that such vessels do not cooperate in the conservation of resources, or contravene the working conditions of crew members. They are framework rules to prevent companies from changing the flag of their vessels as a way of avoiding compliance with measures of conservation and management measures agreed at international level.

14. Royal Decree 2287/98 conditions the authorisation for the definitive exportation of vessels of the deep-sea fleet, so as not to allow exportations to countries that are listed in *Royal Decree, 1080/1991*, which details the states and territories that are considered to be tax havens. Incidentally, on this list that contains 48 states or territories, there are many countries that are flags of convenience from a fisheries perspective.

- **Royal Decree 601/1999 of 16 April, regulating the Official Register of Fisheries Companies in Third Countries.**

15. The creation and maintenance of this register constitutes an instrument for monitoring the activities undertaken by fisheries companies involving Spanish capital in third countries.

16. This provision conditions registration to the fact that the fishing companies be located in countries that cooperate in the conservation of fisheries resources, either directly or through the corresponding Regional Fisheries Organisations, and that the State in question has economically exploitable fish resources within its own Exclusive Economic Zone (EEZ).

- **Royal Decree 3448/2000, of 22 December, laying down the basic regulations for the structural aids in the fisheries sector.**

17. This conditions the authorisation for the incorporation of joint ventures to the fact that “there are sufficient guarantees to ensure there is to be no contravention of international law, in particular regarding the norms of conservation and management of the sea’s resources and as concerns the working conditions of crew members.”

b) Fishing activities by foreign vessels within EEZ

- **Royal Decree 1797/1999, of 26 November, on the monitoring of fishing operations by vessels of third Countries in waters under Spanish sovereignty or jurisdiction.**

18. It establishes the monitoring of fishing operations by vessels of third Countries in waters under Spanish sovereignty or jurisdiction in order to verify compliance with the recommendations and other measures of protection and management of the fishing resources adopted by the Regional Fisheries Organisations.

19. Its adoption meant the creation of the regulatory instrument for consolidating control as Port State. Combined with other instruments, it provides the possibility to refuse port access to those vessels identified by Regional Fisheries Organisations as engaged in IUU fishing.

20. More recently, in a similar manner, the **Law 3/2001 on Marine Fishing**, lays down the regulations regarding offences and penalties with regard to marine fishing.

c) Registration of fishing vessels

- **The Spanish global census of the operative fishing fleet**, created by Order of 30 January 1989, constitutes a single record of fishing vessels for the entire nation, with an ample and trustworthy database.

21. At Community level there is a census of all the fishing vessels in the EU, which was created for the purpose of controlling the fishing effort from different perspectives. Each one of the vessels that features in this census has a Community licence, which includes three kinds of information: concerning the vessel (its identification data), concerning the owner of the vessel (name and address of the owner) and concerning the vessel’s technical characteristics and gear.

22. In order to fish, Spanish vessels are required to be in possession of a specific authorisation issued by the fisheries authorities which specifies the area where the vessel is authorised to fish, the fishing

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period, as well as all the conditions it has to fulfil, in terms of both the fishing gear, target species and the regular reporting of catches and any landings to be carried out.

23. The data from fishing vessels authorised to fish in Community and international waters is submitted to the EU.

2. Economic measures

2.1. Investment rules

24. Foreign investment is not restricted in Spain, but national investment in third countries is regulated, especially when governmental aids to reduce the internal fishing effort can be obtained.

25. **Royal Decree 3448/2000, of 22 December, laying down the basic regulations for the structural aids in the fisheries sector**, conditions the authorisation for the incorporation of joint ventures to the fact that “there are sufficient guarantees to ensure there is to be no contravention of international law, in particular regarding the norms of conservation and management of the sea’s resources and as concerns the working conditions of crew members.”

26. As stated before, the creation and maintenance of the **Official Register of Fishing Companies in Third Countries** constitutes an instrument for monitoring the activities undertaken by fishing companies involving Spanish capital in third countries.

27. This provision conditions the registration to the fact that the fishing companies be located in countries that cooperate in the conservation of fishing resources, either directly or through the corresponding Regional Fisheries Organisations, and that the State in question has in its own Exclusive Economic Zone (EEZ) economically exploitable fishing resources.

2.2. Trade rules

28. The prohibition to commercialise products captured contravening the rules on protection and conservation of the fish resources is the most effective form of dissuasion of illegal captures and the best guarantee of a policy of responsible fishing.

29. The **Law 3/2001 on Marine Fisheries** has among its objectives the establishment of the basic legislation for the management of trade of fish products as well as the regulation of external trade. It also lays down a system of offences and penalties in the area of trade of fish products.

30. The law dictates the mandatory requirements for prior authorisation from the Ministry of Agriculture, Fisheries and Food (MAPA) for the masters of vessels from third countries that transport fish products and wish to unload in Spanish ports. Likewise, it indicates that those operations involving the Customs Authorities may only be carried out subsequent to presentation of said documentation.

31. **Royal Decree 1134/2002, of 31 October 2002, on the application of penalties to Spanish nationals employed on flag-of-convenience vessels** provides the necessary guarantees to impede the marketing of fish products, at the time of landing or import onto Spanish territory by any means, of the catches proceeding from those fishing vessels that have been found responsible of engaging in activities of illegal fishing, or which are contrary to the measures of conservation and management of the Regional Fisheries Management Organisations in the area of regulation.

2.3. Rules regarding landing, transshipments and marketing

32. As it has already been stated, the adoption of **Royal Decree 1797/1999 of 26 November, on the control of the fisheries operations of the fishing vessels of third countries**, meant the creation of the regulatory instrument for consolidating control as a Port State.

33. On the basis of this provision, the requirement is introduced whereby authorisation has to be obtained to land or tranship in Spanish territory, as well as the need to provide proof of the origin of the catches, within the objective of ensuring that respect is upheld for the measures of conservation and management adopted by the Regional Fisheries Organisations.

34. Accordingly, an administrative system is introduced for the systematic monitoring and control of fisheries operations undertaken by vessels from third countries upon which the inspection is conducted.

35. Having this instrument has added a new dimension to the implementation of controls for combating illegal fishing:

- It allowed for the establishment in Spain, as of May 2000, of the control system for catches of “Dissostichus” (toothfish) introduced by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). This measure has meant the closure of the Spanish market to the illegal catches of this species.
- Applying the annual Resolutions on “Instructions for the eradication of the illegal fishing of tuna and swordfish in Spanish ports”, based on the list of States that have a quota in the Atlantic, the computation of the same and the documentary evidence that proves the area where catches have been caught, authorisation is granted or refused to the landing or transhipping of the fisheries products in Spain.
- Inspection of the cargo of all vessels of the Contracting Parties to the International Commission for the Conservation of the Atlantic Tuna, as well as of Non-Contracting Parties: This measure complements the application of the recommendation of the ICCAT whereby a ban is imposed on the import of swordfish, red tuna and bigeye tuna from Equatorial Guinea, Honduras and Belize.

36. Nevertheless, this instrument of control for Spanish ports does not guarantee that illegal catches do not reach the Spanish market. Due to the effect of the free movement within the Community’s internal market, illegal catches reach the Spanish market from Member States that have not introduced suitable instruments of port control. Spain proposes to encourage the application of similar measures throughout the entire European Community.

37. The Framework Agreement established, in 1997, **the Annual Programme for the Integrated Control of Fisheries Activities** (PACIAP). By virtue of this programme, concerning initiatives developed on land, there is a coordinated control of non-regulation fish sizes in transport by road. These controls are carried out within a collaboration agreement by units from the Ministry of Agriculture, Fisheries and Food and the Ministry of the Interior, involved in the control, monitoring and surveillance of fishing activities.

2.4. Penalties, fees and restrictions to GFTs

38. **Law 3/2001 on Marine Fisheries** and further legislation lays down a system of offences and penalties in the area of marine fisheries. There is no differential treatment between national and foreign vessels with regard to sanctions.

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39. The main infractions related to IUU activities are considered to be heavy infractions or very heavy infractions.

40. The following are considered heavy infractions: a) fishing without the appropriate authorisation, b) fishing a species when its TAC is exhausted, c) fishing in closed areas or during seasonal closures or for banned fish species, d) no compliance with the effort rules, e) not having the VMS installed, f) no compliance with communication rules g) landings from third countries vessels without control, h) landing outside permitted zones, i) landing, commercialisation or transportation of undersized products, j) the use of non-regulated gears, etc.

41. The following are considered very heavy infractions: a) to fish with a vessel not registered in the Fishing Vessels Census, b) Third countries vessels fishing in Spanish waters without the required authorisation, c) landings from Third Country vessels without justifying its origin, d) no compliance with the obligations derived from International Treaties, e) fishing with forbidden gears or techniques (e.g. use of dynamite), etc.

42. Heavy infractions are sanctioned with a fee of between EUR 301 to EUR 60 000, as well as an immobilisation of the vessel for no longer than 3 years and the seizure of the products.

43. Very heavy infractions are sanctioned with a fee that oscillates between EUR 60 001 and EUR 300 000, an immobilisation of the vessel of no longer than 5 years, the seizure of the fishing products and the vessel when it is not registered in the Fishing vessels Census.

3. Other measures

44. On 26 August 1997, establishment was made of a **Fisheries Protected Zone in the Mediterranean Sea** (Decree 1315/1997), to control the activity of vessels of other flags beyond the 12-mile limit. This FPZ is in compliance with the Convention on the Law of the Sea and invoked "*erga omnes*". Thus Spain exercises its jurisdiction over the FPZ in the Mediterranean and exercises its powers of control and inspection, pursuant to Community and Spanish legislation. As a result of the establishment of the FPZ, Spain supervises and, where appropriate, denies the right to fish in that area from non-EU third countries, which has already meant an improvement in stocks of red tuna and other species of tuna.

45. During the last years, a notorious decrease in the consumption of undersized fish has been noted, especially thanks to the information campaigns of the FROM (Autonomous Organisation addressed to regulate the internal fish market, that depends from the Fisheries Ministry).

SWEDEN**1. Legal measures and regulations*****a) Fishing activities by national vessels***

1. The Swedish Fisheries Act of 1993 is valid in Swedish territorial waters and in the EEZ of Sweden. Certain parts of the act are also applicable on the high seas and in other waters where fishing is conducted under different international agreements. The Swedish regulations that are applicable on the high seas and in the EEZ of other countries concern, among other things, what kind of fish that is permitted to catch, what kind of equipment and techniques that may be used and in what areas and during what time of the year fishing is allowed.

2. Violation of the Swedish Fisheries Act by a Swedish vessel outside the Swedish territory could be within the jurisdiction of a Swedish court. The penalty is a fine or prison of up to one year. If the crime is severe, the penalty may be two years of prison.

3. Swedish vessels fishing in international waters or in EEZ of another country need special permits to fish. In Sweden, three types of permits exist :

6. Fishing vessel permit – a permit for the actual vessel.

7. Personal fishing license – connected to the individual fisher

8. A special fishing permit – Is sometimes needed for a fishing vessel to fish in international waters or in other EEZ countries.

4. The National Board of Fisheries issues the special permit. The special permit can be revoked if regulations have been breached. The Special permits are issued based on historical fishing records in the area in question. If the vessel has been caught for illegal fishing, it might lead to a reduction of the vessels fishing ration or to a withdrawal of the special permit for a certain period of time.

5. Certain reporting procedures must be acknowledged when fishing in international waters. It is for example necessary to report when a special permit is used for the first time and also to report when it is no longer in use. All Swedish vessels with a length of 24 meters or more have to use a VMS (satellite) to report their position. This regulation is valid for Swedish territorial waters as well as in international waters.

6. The National Board of Fisheries may, when a sentence has acquired legal force, decide to revoke a fishing vessel's general permit to fish. The withdrawal of the permit can last from two weeks up to six months.

7. Control at sea and in harbours is carried out by the Coast Guard. Their jurisdiction is limited to Swedish waters. The Coast Guard has participated in controls conducted in international waters in NEAFC areas. When Swedish vessels fish in waters outside Swedish territorial waters, the Fisheries Act allows

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foreign authorities to check the vessels through boarding. The captain is obliged to facilitate control of any kind.

8. Two sentences in Swedish courts against Swedish fishers have attracted attention lately. One sentence concerns fishing in international waters without a special permit, the other illegal fishing of herring in the North Sea. A summary of the two verdicts can be found in Appendix 1.

9. In addition to national fisheries regulations there are EC regulations that are relevant to Swedish fishers.

b) Fishing activities by foreign vessels within EEZ

10. The EC has exclusive competence to negotiate and conclude fisheries agreements with third countries. Agreements that allow fishing by foreign vessels in Swedish waters exist with Norway, Estonia, Latvia, Lithuania and Poland. Vessels from other EC countries may fish in the EEZ of Sweden as long as there are quotas, or if fishing is conducted on unregulated species.

11. The behaviour of third country fishing vessels fishing in Swedish territorial waters is regulated under different EC-regulations and in agreements with the countries in question.

12. The Coast Guard controls foreign vessels fishing in the Swedish EEZ. The Swedish Fisheries Act is applicable also for foreign vessels fishing in Swedish EEZ. Violations against Swedish regulations can be judged at Swedish courts.

13. To fish without a valid permit is a serious crime. The penalty for violation of the Fishing Act in Sweden is fines. Furthermore equipment, vessels and catch can be confiscated. This is true for Swedish fishers as well as for foreign fishers. Due to the fact that Sweden has ratified the 1982 UN Convention on the Law of the Sea, prison is not in the range of punishment for fishing crimes within the EEZ.

c) Registration of fishing vessels

14. The Swedish fishing vessels are listed in two different registers. One is kept by the Swedish Maritime Administration and the other by the National Board of Fisheries. In the register kept by the Swedish Maritime Administration all vessels that have a length of 5 meters or more is listed. In this register a ship is considered a fishing vessel if it carries the appropriate equipment. If the owner of the vessel has a valid fishing licence a district identification code is given to the vessel. Thus, there might be ships in the Swedish Maritime Administrations register that are listed as fishing vessels but can't be used for fishing due to the fact that the owner of the vessel does not have a valid fishing license.

15. In the register kept by the National Board of Fisheries, there are, however, only active fishing vessels listed. The requirement for a vessel to be listed in this register is that the National Board of Fisheries has issued a fishing vessel permit. The demands that must be fulfilled to obtain a fishing vessel permit are three. 1) The vessel must be listed in the Swedish Maritime Administrations register of shipping, 2) there must be a financial connection to Sweden and 3) that a fisher with a valid fishing license can be registered as permit holder/ship operator of the vessel.

16. Fishing vessel permits can be refused or revoked under certain circumstances. See parts 1a and 1d.

17. In Sweden a fishing vessel permit is issued to a person with a valid fishing license, not to the actual vessel or to the actual owner of the vessel. Governmental or public authority permission is not needed for reflagging of national flagged fishing vessels to alternative registers in other countries. No

special measures are in use to prevent flag hopping, but increased cost for administration and security for bank engagement can act as a deterrent.

2. Economic Measures

a) Investment rules

18. As a general rule, a ship is to be considered Swedish and has the right to carry Swedish flag if more than half of the owners are Swedish citizens or Swedish juridical persons. For more detailed information see the Swedish Law of the Sea (1994:1009).

19. To be allowed to fish under Swedish quotas, a personal fishing license is needed. Licenses are granted according to the stock situation and the fisher must have a connection to the Swedish fishing industry. Landings in Sweden, the fact that fishing trips must start in Swedish ports and that the fisher live in Sweden demonstrate this connection. To be able to apply for a vessel permit, a fishing license is required. The vessel also has to carry the Swedish flag. The vessel permit is necessary if a vessel is to be used in a professional fishery.

b) Trade rules

20. As a member of the EU the rules for trade are the same as for the EU as a whole. No special measures are applied to prevent trade in fish and fish products of IUU origin.

d) Rules regarding landing, transshipments and marketing

21. Third country fishing vessels may only land their catch in 13 selected harbours. There are no national regulations that forbid reloading from foreign vessels.

22. There are no special regulations that apply to vessels that have been involved in criminality. The National Board of Fisheries and the Coast Guard have, however, frequent contacts through a risk based check-up system where special control measures can be directed towards vessels that can be suspected of crime.

23. EC-regulations regulate the remainder of this area.

e) Penalties, fees and restrictions to GFT's

24. The same penalty code in the Fisheries Act applies for Swedish fishers as for foreign fishers. Crimes committed by foreign vessels are generally harder to investigate, especially if the vessel has left Swedish waters. The prosecutor is sometimes forced to cancel preliminary investigations due to the fact that the suspect has left the country and is not expected to return.

25. Fishing without necessary permits is a serious crime. With the exception of the two sentences mentioned in section 1b, no one has been convicted as fishing without a valid permit. The National Board of Fisheries has, however, recently observed a few cases where Swedish fishers have been fishing without valid permits. One explanation can be that the fishers have forgotten to renew their permits but the National Board of Fisheries has, however, previously notified the prosecutor.

26. The EC concludes fisheries agreement with third countries in the Swedish EEZ. Possible fees are resolved in the agreement.

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3. Other measures

27. In Sweden the organisation for the West Coast Fishers (Svenska västkustfiskarnas centralförbund) has certain rules concerning defiance of quota rations. Fishers that fish over the quota rations, and are a member of the organisation, can be fined. In the last three years no one has been fined. The organisation does not have penalties concerning violation of other rules and regulations.

28. Members of the organisation for the West Coast Fishers are responsible for approximately 80 % of the landed quantities of fish.

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APPENDIX 1. SUMMARY OF THE TWO COURT CASES

In the first case, which was decided on 23 December 2002, the masters of two Swedish fishing vessels were convicted of illegally fishing for herring on the high sea in the North-East Atlantic Fisheries Commission area (NEAFC). Swedish fishing vessels are prohibited to fish on the high seas unless the vessel has a special fishing-license from the National Board of Fisheries for this. The two vessels, which according to the log books had been fishing in the NEAFC-area, didn't have the special fishing-license for this activity. The masters said in the court that they didn't know that it was necessary to have the special fishing-license, they thought it was enough that Sweden had quota for herring in the area. The two masters got fines, together SEK 87 000 and they moreover had to pay the value of the illegal catch, SEK 179 000.

In the second case, which was decided on 19 May 2003, the masters of four Swedish fishing vessels were convicted of illegally fishing for herring in the North Sea notwithstanding the fact that their log books purported to show that they had been fishing in the Baltic Sea (which would have been lawful in the case of herring at that time). The main evidence against the accused was provided by marine biologists who testified that there was virtually no doubt that the herring caught did not come from the Baltic Sea as well as the fact that the vessels had not been observed at any of the three entry points into the Baltic Sea. The court however, in finding the accused guilty, took particular notice of the fact that the satellite tracking systems of the four vessels ceased transmitting at almost the same time and resumed their transmission virtually simultaneously. This was seen to be evidence of suspicious conduct on the part of the accused. The four masters got fines, together SEK 912 000 and they moreover had to pay the value of the illegal catch, SEK 1 068 000.

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TURKEY**1. Legal measures and regulations*****a) Fishing activities by national vessels***

1. No regulation is in place that regulates Turkish flagging vessels fishing activity outside our country's EEZ. Those vessels must apply and get permission from the competent fishing authority to fish in a country's EEZ or territorial waters and possess the document of that country allowing foreign vessels to fish in those waters.

b) Fishing activities by foreign vessels within EEZ

2. Turkish Fisheries law (no. 1380) does not allow foreign vessels to fish in Turkish EEZ or territorial waters. Should foreign vessels fish illegally, their equipment and their IUU origin fish are confiscated and financial penalties are applied (up to USD 3 600).

c) Registration of fishing vessels

3. General requirements for registering of fishing vessels are:

- technical suitability of the vessels for sailing;
- owners must have Turkish nationality;
- owners must be over 18 years of age.

4. According to the recent amendment in the Fisheries law, those engaged in IUU fishing activities would be punished with removal of fishing licence following a period of 1-3 months temporary ban from fishing. Additionally, financial penalties are also added (up to about USD 4 200).

5. Ship owners and operators are both eligible for licensing and government permission is required. Financial penalties are in place (up to about USD 3 600).

2. Economic measures***a) Investment***

6. The Turkish fisheries sector is fully liberalised although the investor should have Turkish nationality. However, licensing of fishing vessels has been frozen due to over fishing capacity, except for those operating in new dams and lakes.

b) Trade rules (including trade-related rules)

7. IUU origin fish are confiscated and subsequently sold in auction after being subjected to legal trade.

c) Rules regarding landing, transshipment and marketing

8. No rule is in place regarding foreign direct landing and transshipment from foreign vessels.

d) Penalties, fees and restriction to GFT

9. Foreign vessels, their equipment and their IUU origin fish are confiscated. Additionally financial penalties are applied (up to USD 3 600) but fees are not implemented.

3. Other measures

10. Pressures of environment and nature groups, NGOs, press and media on fishing community by bringing attention to IUU and over fishing, damage to natural stocks, threat of extinction of some species, etc.

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UNITED KINGDOM

Forthcoming.

UNITED STATES

1. Legal measures and regulations

1. The United States has been – and will continue to be – among the leaders of the international community in efforts to address IUU fishing. The United States contributed actively to the development of the FAO International Plan of Action on IUU (IPOA-IUU) and to measures adopted in various regional fisheries management organizations (RFMOs) on this topic. At the national level, U.S. laws and regulations to combat IUU fishing are among the strongest, most comprehensive and best enforced in the world.

a) Fishing activities by national vessels

2. The U.S. Lacey Act (16 U.S.C. 3371 et seq.) makes it unlawful for any person subject to U.S. jurisdiction to “import, export, transport, sell, receive, acquire, possess or purchase any fish ... taken, possessed or sold in violation of any ... foreign ... law, treaty or regulation.” The United States has used the Lacey Act successfully to prosecute U.S. nationals who engage in certain forms of IUU fishing. A recent case, involving both foreign nationals and U.S. nationals who were illegally importing large quantities of Honduran spiny lobster into the United States, was prosecuted criminally under the Lacey Act and resulted in some of the longest jail terms ever given under that statute. (See *U.S. vs. McNabb, et. al.*) Such prosecutions occur only where there is some “nexus” between the activity in question and the United States, e.g., where the fish or fish products are landed, brought, or introduced into any place subject to the jurisdiction of the United States.

3. Although the Lacey Act covers acts in violation of any “treaty,” it does not expressly cover acts in violation of conservation and management measures that may be adopted by RFMOs. Certain other U.S. laws make it unlawful for U.S. nationals (and other persons subject to U.S. jurisdiction) to engage in fishing activity in violation of such measures. See, e.g., Atlantic Tunas Convention Act (16 U.S.C. 971), North Pacific Anadromous Stocks Act of 1992 (Title VII of P.L. 102-567), etc.

4. The United States has implemented the FAO Compliance Agreement, requiring all U.S. vessels fishing on the high seas to possess a permit and conditioning such permits on observation of all internationally agreed conservation and management measures recognized by the United States. Permit holders are required to fish in accordance with the provisions of these agreements and U.S. regulations.

5. The Magnuson-Stevens Act lays out a process for, and various prohibitions on, transshipment activities by both U.S. and foreign vessels. The National Marine Fisheries Service (NMFS), however, does not completely regulate transport and support vessels. Transshipments between U.S. fisheries go largely unchecked, and are prohibited only in a few isolated fisheries. For instance, U.S. regulations of highly migratory species do not allow U.S. vessels to participate in at-sea transshipments.

6. Within the U.S. Government, a number of federal agencies have responsibility for MCS functions, including the National Oceanic and Atmospheric Administration (NOAA), U.S. Coast Guard, Customs, the Immigration and Naturalization Service, the Department of Justice, the Department of State, and others.

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7. The United States has recently taken significant steps to update its fishery MCS program. Since 2000, the United States has more than doubled the budget for the National Marine Fisheries Service (NMFS) Office for Law Enforcement, expanding federal-state law enforcement partnerships and funding a national VMS program. This increased support has enhanced U.S. capacity to monitor fishing operations and landings, and to oversee the passage of fishery products through commerce at unprecedented levels.

8. Over the past twenty years, the U.S. Coast Guard's role in fisheries law enforcement has shifted from monitoring foreign fishing activity in waters under the jurisdiction of the United States to ensuring compliance by U.S. fishing vessels while minimizing illegal incursions of foreign vessels into U.S. waters.

9. To date, NMFS's Office for Law Enforcement has actual or pending arrangements for the monitoring of nearly 2,500 fishing vessels in both domestic and international fisheries. Domestically, the United States first used VMS in the Hawaiian pelagic longline fishery in 1994. VMS monitors approximately 130 longliners, deterring them from fishing in large closed areas established to reduce localized overfishing, and minimizing conflicts with endangered species. VMS is also required in certain fisheries in New England and Alaska. Currently NMFS and the U.S. Coast Guard are working on implementing a National Vessel Monitoring System (N-VMS). N-VMS will not require VMS on all vessels. It will, however, consolidate all VMS information into one database and promote near real-time transmission of this data to on-the-water assets.

10. The United States maintains a tuna access agreement with the island States of the South Pacific Forum Fisheries Agency. The agreement stipulates the use of VMS on U.S. vessels fishing in these countries' EEZs and requires observers on a proportion of fishing trips. U.S. vessels also fish in Canada's EEZ under a bilateral treaty governing mutual access to Pacific albacore tuna stocks. These vessels are subject to the same MCS requirements, i.e. observers, logbooks, etc, as those participating in the U.S. domestic albacore fishery.

11. NMFS deploys approximately 500 observers who monitor more than 42,000 fishing days in more than 20 fisheries annually. Most are used in domestic fisheries, but the United States does require observer coverage in many high seas fisheries as well. Observers are generally used to collect data for monitoring catch, discards, and incidental takes of protected species such as marine mammals, seabirds and sea turtles. In some fisheries, observers may also be used to monitor compliance with regulations. Observers are, however, recruited as biological technicians to perform primary activities that are scientifically oriented.

12. NOAA has also been active in promoting and sharing information within national judicial systems. A good example of sharing this type of information involves the first known case worldwide relying exclusively on VMS evidence to be decided by a court of law (See NOAA case *In the Matter of Lobsters, Inc. and Mr. Lawrence M. Yacubian*). The decision and other information on the case were immediately shared with national representatives on the MCS Network and other interested countries and widely distributed on the Internet. As VMS proliferates, information sharing is essential, as judges around the globe will face similar issues within the context of their legal structures.

13. The U.S. Government participates actively in numerous international fisheries organizations and continually seeks to promote MCS mechanisms and regimes that are consistent with international as well as domestic laws.

14. The United States is already party to several international agreements that provide for the boarding and inspection of vessels fishing on the high seas, under certain conditions and subject to certain limitations. Those regimes are the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, the

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Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, and a scheme established under the auspices of the Northwest Atlantic Fisheries Organization. In addition, the United States is among those States that have signed the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which provides for a similar scheme. Under the Magnuson-Stevens Act, the United States has full authority to board and inspect all vessels fishing in waters under the jurisdiction of the United States, as well U.S. vessels fishing on the high seas.

15. Examples involving IUU fishing activities by national vessels include a recent case, involving both foreign nationals and U.S. nationals who were illegally importing large quantities of Honduran spiny lobster into the United States, was prosecuted criminally under the Lacey Act and resulted in some of the longest jail terms ever given under that statute (See U.S. vs. McNabb, et.al.).

b) Fishing activities by foreign vessels within EEZ

16. The Magnuson-Stevens Act provides the legal framework under which foreign fishing vessels may operate in the U.S. EEZ. Generally speaking, no foreign vessel may fish in the U.S. EEZ unless the flag State has concluded a "Governing International Fishery Agreement" (GIFA) with the United States. One exception to this rule is a U.S.-Canada treaty governing the Pacific Albacore tuna fishery that allows reciprocal access to albacore tuna stocks in each other's EEZs. At the present time, only a small number of States have GIFAs in force with the United States.

17. Vessels of flag States that have GIFAs in force are eligible to receive allocations of surplus fish stocks for direct harvesting in the U.S. EEZ. Those vessels may also participate in certain types of "joint venture" fishing operations in partnership with U.S. companies. With the exception of 2001, there have been no surplus stocks available for direct harvesting by foreign vessels since the early 1990s. A small amount of "joint venture" fishing does take place each year.

18. GIFAs contain a number of provisions designed to prevent IUU fishing by foreign vessels operating in the U.S. EEZ, including mandatory reporting, use of observers and VMS in certain situations and a number of other controls. These requirements are comparable to those imposed on U.S.-flagged vessels participating in the same fisheries. Given the low level of foreign fishing in the U.S. EEZ in recent years, and the high level of U.S. monitoring required of those operations, the United States is confident that no IUU fishing is taking place by foreign vessels authorized to fish in waters under the jurisdiction of the United States.

19. Under the U.S.-Canada Pacific Albacore treaty, each country retains responsibility for enforcement over its vessels. Canadian vessels are required to hail in and hail out when entering or leaving the U.S. EEZ, and if a violation is detected while in U.S. waters, U.S. enforcement officials will alert Canadian enforcement to take the appropriate action upon the vessel's return to Canadian waters.

c) National legal measures against IUU fishing activities by foreign vessels and fishers

20. The legislative chart in the Appendix summarizes the current levels of sanctions available under U.S. law for IUU fishing.

21. If unauthorized foreign fishing in waters under the jurisdiction of the United States is detected, the vessel will typically be seized and brought into a U.S. port where prosecution will occur, including high monetary fines and possible vessel and catch seizure. This treatment is similar to that of U.S.-flagged and

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permitted vessels committing similar violations. In certain instances, the evidence of the violation will be given to the vessel's flag state so that it may prosecute the offence rather than U.S. authorities.

22. The United States and Russia have developed a broad and growing cooperative relationship on fisheries enforcement matters in the Bering Sea and North Pacific Ocean, under the umbrella of a 1988 Agreement on Mutual Fisheries Relations. Particular attention has focused in recent years in deterring and penalizing incursions by Russian and third-party vessels across the U.S.-Russia maritime boundary line in this region. Recently, the first meeting of fisheries law experts took place between Russia and the United States.

23. The United States and Mexico also cooperate on fisheries enforcement matters, but do not yet have a formal agreement in this field. Fisheries enforcement officials share information regularly on an informal basis, particularly with respect to pending investigations concerning alleged illegal fishing by vessels of one State in waters of the other State. The two States have also been attempting to make more routine the handling of cases involving small Mexican vessels (*lanchas*) operating in the Gulf of Mexico that cross into waters under the jurisdiction of the United States and fish illegally. An effort is also underway to develop a U.S.-Mexico fisheries enforcement agreement modeled on the U.S.-Canada and U.S.-Russia agreements.

24. Since 1991, the United States has maintained a Memorandum of Understanding (MOU) with the People's Republic of China that facilitates joint enforcement of the high seas driftnet moratorium in the North Pacific. The MOU allows boarding of vessels of one Party suspected of large-scale high seas driftnet (HSDN) fishing by enforcement officials of the other Party. The MOU also provides for officials of the People's Republic of China to embark on U.S. Coast Guard cutters engaging in high seas driftnet patrols. For the last several years, in addition to deploying on cutters on an as-needed basis, PRC officials have taken part in U.S. Coast Guard fisheries law enforcement training in Kodiak, AK and in U.S. Coast Guard HSDN surveillance flights.

25. The United States apprehends and prosecutes foreign flag vessels that engage in IUU fishing within waters under the jurisdiction of the United States and through appropriate international authorities. The cases described below are examples of such sanctions.

26. In September 1994, the Honduran-flagged, Korean owned, F/V HAENG BOK #309 was determined to have made three incursions into the U.S. EEZ, and it complied promptly with U.S. Coast Guard attempts to conduct a boarding. The case was settled for a civil penalty of USD 1.12 m and the company was required to put Vessel Monitoring Systems (VMS) on their entire fleet of 19 longliners for a period of five years.

27. The Polish flag vessel ADMIRAL ARCISZEWSKI was detected fishing 1000 yards within the U.S. Exclusive Economic Zone (EEZ) on June 14, 1996. This was the vessel's second offense. The case was settled for USD 750 000, plus USD 10 276 for U.S. Coast Guard costs.

28. The South Korean flag vessel KUM KANG SAN was detected fishing 500 yards within the U.S. EEZ on September 6, 2000, and it complied promptly with U.S. Coast Guard attempts to conduct a boarding. The case was settled for USD 300 000 plus USD 16 415.29 in costs.

29. In July 1997, the unflagged F/V CAO YU #6025 was detected conducting large scale driftnet fishing on the high seas, and the vessel failed to cooperate with the U.S. Coast Guard boarding attempts, resulting in a forced boarding of the vessel. The vessel was forfeited to the United States along with its entire catch of 120 mt of albacore tuna, for an estimated total loss to the unknown owner of USD 435 000.

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30. The South Korean flag vessel MAN JOEK was detected fishing 400 yards within the U.S. EEZ on November 10, 2001, and it complied promptly with U.S. Coast Guard attempts to conduct a boarding. The case was settled for USD 250 000.

d) Registration of fishing vessels

31. All vessels of five net tons or greater that are owned by a U.S. citizen or corporation are required by under U.S. law to be federally documented through the U.S. Coast Guard's National Vessel Documentation Center (NVDC) if the vessels are to be used in the fishery trade. Fishing vessels less than five net tons may not be federally documented, but are otherwise registered by individual states of the United States. Authorization for U.S. vessels to fish in U.S. federally managed fisheries or upon the high seas is a responsibility of NMFS.

32. Currently, a system does not exist where NMFS shares information on a vessel's past fishing activity to the U.S. Coast Guard's NVDC as criteria for issuance of federal documentation or to individual states as criteria for state registration. However, Section 401 of the Magnuson-Stevens Act directs the Secretary of Commerce, in cooperation with several other officials and organizations, to "develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis." NMFS is developing a National Fishing Vessel Registration and Fisheries Information System, which would be a cooperative federal-state partnership.

33. The United States participates in a number of regional fishery management organizations that are developing rules to prevent vessels involved in **chartering arrangements** from being used for IUU fishing. In the ICCAT context, U.S. regulations require U.S. vessels to receive permits from, and report catches to, NMFS. The United States has the authority to issue exempted fishing permits to certain U.S. vessels involved in chartering operations for ICCAT species and to link reporting requirements so that we could collect the same information that the foreign chartering partner receives.

34. The Northwest Atlantic Fisheries Organization (NAFO) has a pilot program allowing the use of national fishing privileges by chartered vessels flying the flag of another NAFO member. Catches made using such arrangements are assigned to the NAFO member that received the fishing privileges. All MCS responsibilities remain with the flag State.

35. The United States requires express authorization to fish in most, but not all, federally managed fisheries. The existence of prior convictions for illegal fishing does not preclude an applicant from obtaining a permit. However, if a prior fine for such a violation is unpaid or if a permit sanction exists, the new permit will be denied until the prior penalty is paid or the permit sanction is served. Under the Magnuson-Stevens Act, the transfer of a vessel to a new owner does not extinguish the prior or existing permit sanctions, although the change in ownership may be taken into account in considering whether to issue a new permit.

36. U.S. vessels wishing to fish on the high seas must obtain a NMFS permit. NMFS checks for prior U.S. fisheries violations before issuing such permits. The existence of such violations is taken into account in determining whether to issue a permit, but is not an absolute bar.

37. Although the United States does not require flag-state authorization for foreign vessels fishing in waters under the jurisdiction of the United States, we do require observers and other measures to ensure compliance. However, while the U.S. Government asks for a compliance history of foreign fishing vessels, responses are not investigated.

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38. As noted above, the United States has implemented the FAO Compliance Agreement, requiring all U.S. vessels fishing on the high seas to possess a permit and conditioning such permits on observation of all internationally agreed conservation and management measures recognized by the United States. Permit holders are required to fish in accordance with the provisions of these agreements and U.S. regulations.

39. U.S.-flagged fishing vessels greater than five net tons must be U.S.-built and wholly owned by a U.S. citizen, or by a U.S. corporation or partnership that is at least 75% U.S.-owned. There are no restrictions on registering small vessels built outside of the United States. The National Vessel Documentation Center (NVDC) requires proof of U.S. citizenship for the owner, proof that the vessel was built in the United States, and evidence of removal from the previous flag prior to issuing a federal document with fisheries endorsement. The NVDC database tracks ownership and encumbrances (mortgages, liens, etc.) for all fishing vessels.

40. As a general matter, U.S. laws and regulations do not offer a direct means to prevent U.S. nationals from reflagging fishing vessels, but the American Fisheries Act of 1998 (46 U.S.C. 12102(c)(6)) does prevent the return of large class fishing vessels to U.S. registry once they have been reflagged.

41. Flag-hopping is characterized as the practice of repeated and rapid changes of a vessel's flag for the purposes of circumventing conservation and management measures or provisions adopted at a national, regional or global level or facilitating non-compliance with such measures or provisions. The NVDC requires proof of U.S. citizenship for the owner, proof that the vessel was built in the United States, and evidence of removal from the previous flag prior to issuing a federal document with fisheries endorsement. This review by NVDC prevents vessels from jumping flags repeatedly, and may provide the opportunity for review of historical flagging of vessels

42. Among many recommendations contemplated in the U.S. NPOA are:

- Examine the possibility of linkages between the U.S. Coast Guard's registration process and NMFS's fishery permit process.
- Consider withholding issuance of documentation, registration and/or fishing permits to vessels that have a history of IUU fishing, unless change in ownership and control of the vessel has been verified.
- Consider establishment of a national registration process for small fishing vessels, less than five tons.
- Consider establishing a database of photographs for documented fishing vessels.
- Consider consolidating information on state-registered fishing vessels into a national database.
- Consider developing unified permitting and renewal scheme for U.S. vessels. Permits are issued differently in each of five different regional NMFS offices.
- More thoroughly investigate compliance history of foreign vessels applying to fish in waters under the jurisdiction of the United States.
- Improve logbook data requirements in accordance with paragraph 47.2 of the IPOA-IUU.
- Develop a mechanism to share violation histories on IUU vessels with other States.
- Review the existing process on transshipment activities and determine where improvements are possible, e.g., prior notification.

2. Economic measures

a) Investment rules

43. The United States has no restrictions on investments in shore-side operations such as processing plants. The US does maintain laws that prohibit the transportation of merchandise between points in the United States except on US-built vessels documented under US law and owned by citizens of the USA. These laws are collectively known as the Jones Act. The American Fisheries Act of 1998 has had a significant impact on foreign direct ownership/shareholding restrictions. The AFA increased U.S. percentage of ownership requirement from 51% to 75%.

b) Trade rules (including trade-related rules)

44. As a matter of policy, the United States considers the use of trade restrictive measures to be an extraordinary action. The United States recognizes that the most effective trade measures to combat IUU fishing are likely to be those that are developed and implemented under the auspices of multilateral organizations with well-defined conservation goals articulated as first principles. The United States has actively participated in the establishment of such measures (including import prohibitions, landing restrictions, and catch certification and trade documentation schemes) through our membership in various RFMOs. As discussed more fully below, the United States believes that RFMOs should expand the use of such measures to combat IUU fishing.

45. The United States fully implements a range of catch documentation and certification schemes through RFMOs. For example, we prohibit the importation of certain tuna and tuna-like species from specific States in accordance with recommendations adopted by ICCAT. We also require imports of certain fish and fish products to be accompanied by documents mandated by RFMOs such as ICCAT and CCAMLR.

46. The United States has taken the lead in promoting the use of catch documentation and certification schemes in a number of RFMOs such as CCAMLR, ICCAT, and the IATTC. CCAMLR and IATTC have adopted catch certification programs and ICCAT has adopted statistical document programs for several species. These programs are under continuous review in an effort to improve their effectiveness.

47. The United States actively supports the goal of standardizing catch documentation requirements to the extent feasible, and has been working with FAO, certain RFMOs and other States to achieve it. The United States considers the implementation of harmonized electronic catch certification and documentation schemes tailored to fit the needs and requirements of each RFMO to be the most effective way to accomplish this objective. For example, the United States is working with other members of CCAMLR is moving towards converting its documentation scheme for toothfish to an electronic format. Meanwhile, CCAMLR is developing ways to make its forms more efficient and comprehensive.

48. As noted above, the U.S. Lacey Act makes it unlawful for persons subject to U.S. jurisdiction to “import, export, transport, sell, receive, acquire, possess or purchase any fish ... taken, possessed or sold in violation of any ... foreign ... law, treaty or regulation.” if the fish or fish product was harvested in violation of another State’s law or in violation of a treaty. As for commercial suasion, the United States has not provided “administrative guidance” to its fisheries sector in the way that some countries have done and is not likely to do so in the future.

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49. In a number of instances unregulated and unreported fisheries are also unidentified fisheries. In this regard, the United States joined with other States in March 2002 at the FAO in developing a draft Strategy for the Improvement of Reporting on Status and Trends in Commercial Fisheries. One element of this draft strategy is to expand the customs codes into products and fisheries not currently covered by codes and then to expand the depth and breadth of FAO's reporting on these fisheries, such as those for sharks or coral reef species that currently operate without any tracking of volumes and movement of trade. The United States is a supporter of this strategy and will work for its adoption and implementation at FAO.

50. The United States has been a leader in encouraging closer cooperation between the FAO and CITES to improve the applicability of CITES provisions to commercial fisheries and supports the early development of an MOU between the two organizations to formalize cooperation. The United States would also like to see greater cooperation between FAO and CITES lead to increased law enforcement capacity from both organizations in line with the MCS provisions of the IPOA. As a tool for tracking trade and as a legally binding instrument, CITES Appendix II can be useful in accurately cataloguing and deterring IUU fishing. The United States thinks that CITES could be used under certain circumstances as an effective adjunct to traditional fisheries management regimes. CITES cannot replace fisheries management, but can be an effective tool to control and track and regulate trade.

c) Rules regarding landing, transshipments and marketing

51. U.S. law generally prohibits foreign vessels from landing or transshipping fish in U.S. ports. The primary exceptions to this rule concern ports in U.S. territories in the Pacific Ocean and landings of Pacific albacore tuna under a U.S.-Canada treaty. With respect to those ports, at least, the provisions of the IPOA-IUU are relevant to the United States.

52. NMFS boards some foreign vessels in U.S. ports to examine and verify fish landings. The U.S. Coast Guard requires an Advanced Notice of Arrival 96 hours prior to entry into U.S. ports for all vessels greater than 300 gross tons. This requirement does not presently capture most fishing vessels, as they are usually less than 300 gross tons. The United States does not currently require foreign fishing vessels seeking access to U.S. ports to have a logbook on board. A logbook helps establish where the vessel has been, and where and when it was fishing. This sort of evidence is critical in certain types of cases involving IUU fishing, especially in the absence of universal VMS requirements.

53. If the United States has sufficient evidence of IUU fishing in waters *within U.S. jurisdiction* by a foreign flag vessel and the vessel evades apprehension initially, the vessel would be arrested if it subsequently entered a U.S. port. The United States would notify the flag State. If the fisheries violation involved a stock that is within the purview of a RFMO, the United States might also inform the RFMO as well, depending on the circumstances.

54. If a foreign vessel is suspected of IUU fishing in waters *beyond U.S. jurisdiction* and subsequently seeks access to a U.S. port, the United States would first determine whether the elements of the Lacey Act have been met. If so, the United States would ask the other State(s) involved to investigate the matter and see if they would support a U.S. prosecution. International cooperation through various means, such as the MCS Network and Interpol, may also come into play, as United States works with other States in documenting and prosecuting cases against IUU fishers who cross jurisdictional lines. The United States generally informs flag States of the outcome of U.S. prosecutions in such cases. This information is typically passed through diplomatic channels.

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55. The Magnuson-Stevens Act lays out a process for, and various prohibitions on, transshipment activities by both U.S. and foreign vessels. NMFS, however, does not completely regulate transport and support vessels. Transshipments between U.S. fisheries go largely unchecked, and are prohibited only in a few isolated fisheries.

56. In waters off Alaska, for example, U.S. catcher-processor vessels transship thousands of tons of processed fisheries products to foreign-flagged cargo vessels each year. Although these transshipments are limited to certain locations in internal waters, and must be reported afterwards, there is no prior authorization or notification required.

57. ICCAT rules allow at-sea transshipments to take place only between ICCAT members themselves or between ICCAT members and cooperating non-parties. U.S. regulations of highly migratory species do not allow U.S. vessels to participate in at-sea transshipments.

58. U.S. law generally prohibits foreign fishing vessels and carrier vessels that act as “mother ships” to fishing vessels at sea from landing their catch in U.S. ports. American Samoa, Guam, and the U.S. Virgin Islands are exempt from this law, so foreign cargo vessels that accept at-sea transshipments of fish species and foreign flagged fishing vessels can land product in these U.S. ports.

d) Penalties, fees and restrictions to GFTs

59. Although the Magnuson-Stevens Fishery Conservation and Management Act establishes higher potential penalties against foreign (vs. domestic) fishers for violations, and in fact describes broader restrictions on certain foreign fishing activities, the severity of penalties for those in violation will depend on the facts of the case. Most but not all U.S. fisheries have permit requirements, although some are more restrictive than others. In some cases, permits are given out upon request, while in other fisheries, permits effectively limit access. Differences in permit systems, as well as the severity of the violation, may play a role in assessing a penalty.

60. Under Section 204 of the Magnuson-Stevens Act, fees are charged to apply to fish (including transship) in the EEZ (USD 380.00 per vessel) and a fee schedule is maintained for the quite limited directed fishing possibilities in the Northwest Atlantic (see 50 CFR 600.518). Vessels conducting directed fishing and/or joint ventures are required to pay for observer coverage (see 50 CFR 600.506).

61. All federal loans or grants are subject to background checks including but not limited to credit bureau reports, fines and penalties review. Administrating officials cannot give a loan or grant if there is an outstanding fishing violation. An Inspector General clearance for criminal activity is also required. Due to the fact that boat owners seeking loans or grants must operate within the territory of the U.S. Federal Court system (which for this purpose extends to the waters of Mexico and Canada) restricts the range of the vessels and therefore lessens the likelihood of them ever engaging in IUU activities.

3. Other measures (including moral /ethical)

62. The United States tries to educate the U.S. fishing industry about initiatives such as MCS. A variety of methods are used to provide outreach to industry to increase understanding of the MCS requirements and need for them. This is done at trade shows, targeted educational sessions for industry groups, public affairs work, news releases, and with a toll-free number to report activities that merit investigation. The Fishery

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Management Councils maintain enforcement committees where MCS professionals and council members focus on enforcement activities and their integration into fisheries management plans and approaches.

63. In international negotiations where industry and public interest groups are stakeholders, U.S. delegations often include representatives from groups, allowing diverse interests to have a voice and participate firsthand in the process.

64. NOAA has also implemented direct outreach efforts in certain fisheries to educate fishermen on enforcement issues. In particular, the NMFS Office of Law Enforcement and the NOAA General Counsel for Enforcement and Litigation use the opportunity provided by federally mandated skipper education workshops.

65. Advisory groups representing relevant constituent interests generally support U.S. participation in a large number of regional fishery management organizations and arrangements. These groups have been active in identifying and addressing IUU fishing problems.

66. The United States will publicize the results of IUU fishing cases to include: countries involved, and in general for violations and resulting convictions in order to deter IUU violations and support compliance with international agreements and domestic fishing laws. This information will be distributed through a variety of means including posting on the websites of various federal agencies, including the U.S. Coast Guard and NOAA, and press releases to international and national media venues.

Appendix --Table A.1 United States Statutes Relevant to Fisheries EnforcementKey to Enforcement Authorities in the Following Table:

- 1 Agricultural Marketing Act of 1946, 7 U.S.C. § 1621-1627
- 2 American Fisheries Act of 1998, Pub. Law 105-277;
- 3 Anadromous Fish Products Act, 16 U.S.C. 1822 note, Section 801(f);
- 4 Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431-2444;
- 5 Antarctic Protection Act of 1990, 16 U.S.C. 2461-2465;
- 6 Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5103(b);
- 7 Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601-3608;
- 8 Atlantic Striped Bass Conservation Act, 16 U.S.C. 1851 note;
- 9 Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971k;
- 10 Authorized Law Enforcement Activities, 14 U.S.C. 89;
- 11 Certificate of Legal Origin for Anadromous Fish Products, 16 U.S.C. 1822 note;
- 12 Civil Asset Forfeiture Reform Act of 2000 (CAFRA), Pub. L. 106-185, 114 Stat. 202 (2000);
- 13 Communications Assistance for Law Enforcement Act, 103 P.L. 414, 108 Stat. 4279, 47 U.S.C. 1001;
- 14 Crimes and Criminal Procedure, Wire and Electronic Communications and Interception of Oral Communications, 18 U.S.C. 2510;
- 15 Dolphin Protection Consumer Information Act, 16 U.S.C. 1385 *et seq.*;
- 16 Driftnet Impact Monitoring, Assessment, and Control Act, 16 U.S.C. 1822 note (Section 4001 *et seq.*);
- 17 Eastern Pacific Tuna Licensing Act of 1984, 16 U.S.C. 972-972h;
- 18 Electronic Signatures in Global and National Commerce Act, 106 P.L. 229, 114 Stat. 264;
- 19 Endangered Species Act of 1973, 16 U.S.C. 1531-1544;
- 20 Fur Seal Act Amendments of 1983, 16 U.S.C. 1151-1175;
- 21 High Seas Driftnet Enforcement Act, 16 U.S.C. 1362, 1371, 1852, 1862, 1826a-c, 1861 note, 46 U.S.C. app. 1707a, 2110 note;
- 22 High Seas Fishing Compliance Act, 16 U.S.C. 5501-5509;
- 23 Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378;
- 24 Law Enforcement as a Primary Duty, 14 U.S.C. 2;
- 25 Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1882;
- 26 Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407;
- 27 National Marine Sanctuaries Act, 16 U.S.C. 1431-1439;
- 28 National Security Act of 1947, 50 U.S.C. 401
- 29 North Pacific Anadromous Stocks Act of 1992, 16 U.S.C. 5001-5012;
- 30 Northern Pacific Halibut Act of 1982, 16 U.S.C. 773-773k;
- 31 Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. 5601-5612;
- 32 Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631-3644;
- 33 South Pacific Tuna Act of 1988, 16 U.S.C. 973-973r;
- 34 Sponge Act, 16 U.S.C. 781 *et seq.*;
- 35 Stopping Vessels, 14 U.S.C. 637
- 36 Tuna Conventions Act of 1950, 16 U.S.C. 951-961;
- 37 Whaling Convention Act of 1949, 16 U.S.C. 916-916l.

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Table A1. United States Statutes Relevant to Fisheries Enforcement

1	Consumer marketing statute.	Secretary of Agriculture is authorized to inspect, grade and certify agricultural products. §1622(9h). Secretary may cooperate with other branches of government in carrying out his duties. §1624.	None specified	USD 1 000 or imprisonment for one year, or both.	All persons, natural and juridical (individual, partnership, corporation, association or any other legal entity subject to the laws of the U.S.), for misrepresentation of inspection.
2	Fisheries regulation statute.	Forfeiture of all fish taken in violation of regulations. §212.	Pollock	USD 120 000 for each day of fishing.	Owners of vessels holding an official fisheries endorsement (through agent or representative) for falsification or concealment of a material fact; false statement or representation with respect to the eligibility of the vessel.
3	Fish products import regulation statute.	Secretary of Treasury, pursuant to direction from the President and following certification by Secretary of Commerce, may direct that all unlawfully taken anadromous fish products brought into the U.S., or their monetary value be forfeited. §1978(e)(2). Secretary of Treasury is responsible for enforcement generally.	All anadromous stock	USD 12 000 for first violation; USD 27 000 for each subsequent violation.	All persons, natural or juridical engaging in unlawful import of illegally caught fish.
4	Treaty implementation statute (Convention on the Conservation of Antarctic Marine Living Resources).	Authorized officer may search any person, place, vehicle, vessel, etc. reasonably suspected of involvement in harvesting of marine living resources in violation of the Convention. Evidence, marine living resources, equipment and vessels so engaged may be seized and are subject to forfeiture. Enforcement rests jointly with the Secretary and the Secretary of the Department in which the Coast Guard is operating.	All Antarctic marine living resources.	Civil: Up to USD 6 000 for acts prohibited by §2435, and up to USD 12 000 for acts knowingly committed. Criminal: Only for non-harvest violations –USD 50 000 or imprisonment for up to 10 years, or both, for each “offense” committed -defined as violation of §2435 (4), (5), (6) or (7).	Any person engaged in harvesting of marine living resources in Antarctica.

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5	Antarctic environmental protection statute; implementation of voluntary international resource activity ban.	None provided.	None Specified.	Ineligibility to locate a mining claim; refusal of a patent or a lease relating to mineral or geothermal leasing. Monetary penalties of up to USD 5 500 and USD 11 000 (for knowing violations).	Any person, subject to the jurisdiction of the United States, engaging in, financing or knowingly providing assistance to any Antarctic mineral resource activity.
6	Fisheries conservation and management statute.	In the absence of an approved and implemented fisheries management plan under the Magnuson-Stevens Act, Secretary of Commerce may issue and enforce regulations to govern fishing in the EEZ in a manner consistent with a national coastal fisheries management plan and § 301 of the Magnuson Act.	All fisheries resources potentially within scope of Secretary's authority.	Sections 307-311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1857-61) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations issued by the Secretary under this section in the same manner if such regulations were issued under the Magnuson Act.	All persons subject to liability provisions of Magnuson-Stevens Act.
7	Treaty implementation statute (Convention for the Conservation of Salmon in the North Atlantic Ocean).	Any vessel used, and any fish (or the value thereof) taken or retained in any manner, in connection with or as the result of the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under §310 of the Magnuson-Stevens Act (16 U.S.C. §1860). Enforcement rests with Secretary, in cooperation with the Secretary of the Treasury and the Secretary of the Department in which the USCG is operating.	North Atlantic Salmon	Any person who commits an act unlawful under (a) of this section shall be liable for a civil penalty under §308 of the Magnuson-Stevens Act (16 U.S.C. § 1858; and shall be guilty of an offense under §309 of the Act (16 U.S.C. § 1859).	Any person, or any vessel, subject to the jurisdiction of the U.S. that conducts directed fishing for salmon in waters seaward of twelve miles from the baselines from which the breadths of territorial seas are measured in waters of the Atlantic Ocean north of 36 degrees north latitude; or violates any provision of the Convention or this chapter, or any regulation promulgated thereunder. § 3606(a).

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8	Fisheries Conservation and management statute.	Moratorium on fishing of Atlantic Striped Bass within state coastal waters if that state has failed to implement the conservation plan adopted by the Marine Fisheries Commission. This moratorium may be enforced through the use of all powers available to authorized officers under §311 (b) of the Magnuson-Stevens Act (16 U.S.C. § 1861(b)). Enforcement authority rests jointly with Secretaries of Commerce and Interior.	Atlantic Striped Bass.	Violators of the moratorium shall be subject to penalties set out under §308 of the Magnuson-Stevens Act (16 U.S.C. §1858) (The civil penalty shall not exceed USD 120 000 for each violation. Each day of a continuing violation shall constitute a separate offense. The Secretary or his designee shall assess the amount of the penalty by written notice).	All persons subject to the jurisdiction of the United States.
9	Fisheries and import regulation statute; implementation of treaty obligations (International Convention for the Conservation of Atlantic Tunas 1966).	Any person authorized to enforce the provisions of this chapter and the regulations issued thereunder may board any vessel subject to the jurisdiction of the U.S. and inspect such vessel and its catch. If such inspection results in the reasonable belief that the vessel or any person on board is engaging in operations in violation of this chapter, such person may be arrested.	Atlantic Highly Migratory Species (defined by regulation or Magnuson Act §1802(20)).	Civil penalty up to USD 120 000. Each day of a continuing violation shall constitute a separate offense. All fish taken or retained in violation of the Statute or regulations thereunder may be seized and disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.	Any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the U.S. engaging in fishing in violation of any regulation adopted pursuant to section 971d of this title; or any person engaging in shipping, transport, purchase, sale, offer for sale, import, export, or having possession or control of any fish which he should have known were taken or retained contrary to the recommendation of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to § 971d.
10	Authorizes the USCG to go on board any vessel subject to the jurisdiction or operation of any law of the U.S.	Authorizes the USCG to make inquiries, examinations, inspections, searches, seizures, and arrests for the prevention, detection, and suppression of violations of laws of the U.S.	N/A	N/A	
11	Use of "certificates of legal origin" by multilateral or bilateral agreement to ensure lawful harvest	Trade Sanctions	Anadromous Fish	Prohibited importation of fish products from an offending country for such duration as the President determines appropriate.	Any nation trading in unlawfully taken anadromous fish; fisherman on U.S. vessels harvesting anadromous fish

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12	Statute came out of 7-year attempt to reform civil forfeitures to put in place greater protections for personal property.	Investigation reports must be completed and forwarded to NOAA General Counsel for Enforcement (GCEL) within 30 days from the date of seizure. In any case in which is not forwarded within 30 days from the seizure date, an explanation for the delay must be provided GCEL. After 50 days, the money <i>may</i> be returned to the respondent(s) if there is no reasonable explanation for the delay. Seized property or money <i>will</i> be returned in cases that are forwarded after 60 days. A claimant may file a claim at any time before the deadline set forth by the Agency.	N/A	N/A	N/A
13	Requires the cooperation of telecommunications carriers in the interception of wire, oral, or electronic communications.	Enforcement is by the federal court issuing the surveillance order under 18 U.S.C. §2516.	N/A	Civil penalty up to USD 10 000 per day or violation.	Any telecommunications common carrier (47 U.S.C. §153) subject to the jurisdiction of the U.S. as well as any supplier of services or equipment (subject to the jurisdiction of the U.S.) that may be required to enable the compliance of the carrier.
14	Establishes procedure for obtaining judicial authorization to intercept wire, oral or electronic communications and establishes conditions on the use of such intercepted communications.	Authorizes the Attorney General or his/her designee to authorize application by a federal enforcement agency to a federal judge for authorization to conduct interception pursuant to a federal investigation.	N/A	N/A	N/A
15	Consumer Product Labelling	Civil penalties, equitable relief	Tuna and Dolphins	1) up to USD 10 000 per violation (according to 15 U.S.C. § 45); 2) Civil penalties not to exceed USD 110 000.	Any producer, importer, exporter, distributor, or seller of any tuna product exported from or offered for sale in the U.S. Vessel captains, Designees of the Secretary, representatives of the Inter-American Tropical Tuna Commission, and authorized

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					representatives of participating nations.
16	Research, exchange of information, and cooperative enforcement	Trade Sanctions	Fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl found in, or which breed within, areas subject to the jurisdiction of the U.S., including fish that spawn in the fresh or estuarine waters of the U.S.	Prohibited importation of fish products from an offending country for such duration as the President determines appropriate.	Driftnet fishers operating in the North Pacific.
17	Domestic implementation of multilateral conservation agreements	Civil penalties, search warrants, power of search without a warrant, arrest, seizure, forfeiture.	Certain "designated species of tuna," as defined at 16 U.S.C. § 972.	Civil monetary penalties up to USD 120 000.	Any person subject to the jurisdiction of the U.S., or any vessel subject to the jurisdiction of the U.S. Any person in possession of the regulated species if taken in violation of the Act.
18	Facilitates the use of electronic records and signatures in foreign commerce.	N/A	N/A	N/A	N/A
19	Implementation of multilateral convention through prohibitions on trade or possession of protected species; prohibitions on trade, taking, possession, distribution of domestically protected species; regulation of international traders in fish and wildlife.	Enforcement tools include: reward for information leading to enforcement action; search and arrest warrants; power to inspect items during importation or exportation; power to arrest upon reasonable grounds if violation committed within presence or view; seizure; forfeiture of fish, wildlife, and plants possessed in violation of Act, forfeiture of equipment upon conviction (16 U.S.C. § 1540(e)(4)).	Any threatened or endangered species, as defined at 16 U.S.C. §1532.	Civil Penalties: up to USD 30 000. Criminal violations: up to USD 50 000 or up to one year imprisonment (maximum not available for all violations). Revocation of permits, licenses and agreements also available.	Any person subject to the jurisdiction of the U.S. Exceptions by permit for Alaska natives; provisions for re-introduction of protected species.

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20	Implementation of multilateral convention through prohibitions on harvesting or possession of fur seals taken in violation of provisions.	Boarding and inspection authority in U.S. waters or the high seas; arrest, search, and seizure authority with reasonable cause to believe violation is occurring; extradition of seized vessel and arrested person; authority for enforcement agents to testify against violators in foreign judicial proceedings at the request of foreign authorities; forfeiture of U.S. vessel and fur seals if used or taken in violation of the Act; authorization to issue warrants for probable cause.	Northern Pacific Fur Seal	Criminal fines and imprisonment for knowing violations of the Act: up to USD 20 000 and/or imprisonment for up to one year. Civil penalties for violations: up to USD 11 000 per violation.	Any person or vessel subject to the jurisdiction of the U.S. for the taking, or activities connected with such taking, of fur seals in violation of the Act; also, for refusal to allow boarding and inspection by authorized officials. Exceptions by permit for Alaska natives.
21	Implementation of multilateral program through denial of port privileges and trade sanctions levied on non-conforming nations	Denial of port privileges, denial of entry to U.S. waters, and imposition of trade sanctions.	All species affected by large-scale high seas driftnet fishing. All fish and wildlife, or products of these species, exported by nations that engage in such fishing.	Penalties include the denial of port privileges and the denial of entry into U.S. waters. Penalties also include the loss of revenue for foreign exporters from non-conforming nations.	Large-scale driftnet fishers with vessels under the jurisdiction of the U.S. or fishers with vessels under the jurisdiction of nations found to be using large-scale driftnets on the high seas. The nationals of non-conforming nations may also be made unable to export fish and wildlife to the U.S.
22	Implementation of multilateral agreement through permitting; record-keeping; information sharing; and prohibitions.	Enforcement tools include: rebuttable presumption that all living marine resources found on board a seized vessel were taken or retained violation of the Act; coordination with other agencies; grant of exclusive jurisdiction to U.S. district courts; authority to arrest with reasonable cause with or, under certain circumstances, without a warrant; authority to board, search, and inspect any high seas fishing vessel; authority to sell any seized marine living resource as long as proceeds are deposited with the court; authority to execute any warrant; authority to exercise "any other lawful authority;" discretion to issue citations in lieu of other actions.	All living marine resources commercially exploited on the high seas.	Civil Penalties: A) Not to exceed USD 109 000 per violation (with the vessel used in commission of the offense liable in rem); B) Revocation, suspension, denial, or imposition of additional conditions or restrictions of a permit under the Act; Criminal penalties available for violations involving obstruction of justice, and threatening or assaulting an officer.	Any person subject to the jurisdiction of the U.S. for fishing without a permit, fishing in contravention of conservation measures or permit conditions, obstructing justice, or possessing or trading any living marine resource taken in violation of the Act. The owner or operator of a vessel that has been used in the commission of the above acts, or any person who has not paid assessed penalties, fines, or fees for any permit issued under any U.S. fisheries resource statute.

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23	Use of trade and possession prohibitions to hamper black markets in protected species	Civil penalties; criminal fines; imprisonment; revocation of permit; forfeiture and seizure of vessel, including its fishing gear, furniture, appurtenances, stores, and cargo if possessed, retained, or used in violation of Act (other than an act for which a citation is a sufficient sanction); rebuttable presumption that all living marine resources found on board a seized vessel are taken or retained violation of the Act; provision for sharing of enforcement tools between agencies; grant of exclusive jurisdiction to the U.S. district courts; authority to arrest with reasonable cause; authority to board, search, and inspect any high seas fishing vessel ; authority to sell any seized marine living resource as long as proceeds are deposited with the court; authority to execute any warrant; authority to exercise "any other lawful authority;" discretion to issue citations in lieu of other actions.	Any fish or wildlife species regulated under any U.S. law, treaty, or regulation, or any Indian tribal law, or any State or foreign law. Any wild plant (excluding common food crops and cultivars) which is indigenous to any State and which is either (A) listed on an appendix to the CITES, or (B) listed pursuant to any State law that provides for the conservation of species threatened with extinction.	Civil Penalties: For knowing violations of Sec. 1 or Sec. 4: Up to USD 12 000 for each violation. Criminal Sanctions: up to USD 20 000 and/or imprisonment for not more than 5 years. Suspension or revocation of license or permit also available.	Any natural or juridical person subject to the jurisdiction of the U.S. for: 1) trade (including the offer or provision, or acceptance of guiding, outfitting, or other services or a hunting or fishing license for consideration) in any subject species taken, possessed, transported, or sold in violation of federal law, Indian tribal law, or state laws if in interstate or foreign commerce; 2) to possess within the special maritime and territorial jurisdiction of the U.S. any fish, wildlife, or plant taken in violation of the same laws; 3) to import or export or transport in interstate commerce fish or wildlife unless the container has been properly marked; 4) to falsely identify any fish, wildlife, or plant traded in foreign or interstate commerce
24	Requires the USCG to enforce or assist in the enforcement of all applicable federal laws of the U.S.		N/A	N/A	
25	Fisheries Conservation and Management	The Secretary of Commerce is authorized to promulgate regulations implementing the Act and enforce the Act and any implementing regulations. The U.S. shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species.	The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United	Civil penalties up to USD 120 000.	There is a very broad range of prohibitions under the Act and any person subject to the laws of the U.S. comes within the scope of liability.

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			States rivers or estuaries.		
26	Marine mammal and marine mammal products conservation.	The Secretary may, by agreement, use the resources of another federal agency to enforce the Act and may also designate officers and employees of a state or U.S. possession to enforce the Act, allowing them to function as federal law enforcement agents for this purpose.	Marine mammals, and marine mammal products.	Civil penalty: USD 11 000 – USD 12 000. Criminal penalty (knowing violations): up to USD 20 000 and/or imprisonment for not more than one year. Any person involved in unlawful importation may be made to abandon the mammal or product. 16 U.S.C. 13759(a)(1).	Any person or vessel subject, to the jurisdiction of the U.S. on high seas, or on lands. (Including any port or harbor) To take or import marine mammals or marine mammal products. Also any transport, purchase, sell, export, or offer to do so of any marine mammal or marine mammal products.
27	Regulation and conservation of national sanctuaries.	The Secretary must conduct enforcement activities to carry out the Act. A person authorized to enforce the Act may board, search, inspect or seize a vessel, equipment, stores and cargo suspected of being used to violate the Act, and seize unlawfully taken sanctuary resources.	Species that depend upon these marine areas to survive and propagate.	Any person who violates will receive a civil penalty between USD 109 000 – USD 119 000. 16 U.S.C 1437(c)(1)	Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the U.S. for an amount equal to the sum of: 1. The amount of response costs and damages resulting from the destruction, loss, or injury and, 2. Interest on that amount calculated in the manner described under section 2705 of title 33. Also any vessel used to destroy, cause loss, or injure any sanctuary, shall be liable for response costs and damages.
28	Provides a comprehensive, coordinated program for national security.	Authorizes intelligence agencies to assist federal enforcement agencies with the collection of information outside the U.S. regarding individuals who are non-U.S. persons.	N/A	N/A	N/A
29	Implements the conservation of Anadromous Stocks in the North Pacific Ocean.	The Secretary of Commerce is responsible for administering provisions of the convention, the Act and any regulations issued. With the Secretary of Transportation, the Secretary is responsible for coordinating the participation of the U.S. in the commission.	Fish of the particular Anadromous Stock of the North Pacific Ocean.	Civil penalty: USD 100 000- USD 110 000. Each day of a continuing violation shall constitute a separate offense. Criminal penalty: a fine under title 18, or imprisonment for up to 10 year (for injury to an officer) months, or both.	Any person or fishing vessel subject to the jurisdiction of the U.S. to: fish for anadromous fish in the convention area; retain on board or fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the convention area. Ship, transport, offer for sale, sell, purchase etc, of any anadromous fish taken or retained in violation of the convention.

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30	Implements the (1953 convention between the U.S. and Canada) preservation of the halibut Fishery of the Northern Pacific Ocean and the Bering sea.	Any fishing vessel used and any fish taken in connection with the commission of a prohibited act are subject to forfeiture to the U.S. upon application to the Attorney General. The Act is enforceable by the Secretary and the Secretary of the department in which the Coast Guard is operating.	Halibut	Civil penalty between USD 27 500 –USD 30 000. Each day of a continuing violation shall constitute a separate offense. Criminal penalty of not more than USD 50 000 or imprisonment for not more than 6 months, or both. Other criminal penalties available for non-fishing violations.	It is unlawful for a person to violate the convention or the act and regulations or to resist or interfere with an enforcement officer in the conduct of a search, inspection or lawful detention. It is also unlawful for a foreign fishing vessel to fish for halibut in the EEZ or special areas, unless authorized. Any vessel engaged in catching, processing or transporting fish in convention waters, or a vessel outfitted to engage in an activity described above, and a vessel in normal support of a vessel described above.
31	Provides for appointment of U.S. representatives to the Fisheries Commission and General Council	The Secretary appoints up to three members of the general council and the commission. The Secretary of State and the Secretary must jointly establish a consultative committee to advise on issues related to the convention.	N/A	Civil penalty: USD 100 000 – USD 109 000, and/or permit sanction. Violations of paragraph 2-4, or 6 of subsection (a) of 16 U.S.C. §5606 shall be punishable under 16 U.S.C. §1859(b).	Any person or vessel to: Violate a regulation under the act or a measure binding on the U.S. under the convention; refuse to permit an officer to board a vessel to conduct a search or inspection etc, which interfere with, or delay an arrest for violation of the Act.
32	Fulfillment of obligations under the Pacific Salmon Treaty. (Between the U.S. and Canada)	The U.S. Secretary of State is authorized to: receive and transmit reports and other communications of and, to the commission panel. The secretary of commerce shall inform the state.	Pacific Salmon	Civil penalty up to USD 120 000. Criminal penalties of up to USD 200 000 or imprisonment of up to 10 years.	Any person or vessel subject to the jurisdiction of the U.S. who violates the Act, its implementing regulations, or a Fraser River panel regulation. A vessel used in the commission of a prohibited act shall be subject to forfeiture.
33	Implements the treaty on fisheries between the governments of certain pacific Island states and the U.S.	An officer authorized by the secretary, or the secretary of the department in which the Coast Guard operates.	Tuna	Civil penalties: USD 275 000- USD 300 000. Criminal penalties: USD 50 000- USD 100 000 and imprisonment from 6 months to 10 years.	Any person or vessel to violate the Act or any of it's regulations; use a vessel for fishing in violation of an applicable national law; violate terms and conditions of a fishing arrangement entered into under the treaty.
34	Conservation of commercial sea sponges (Inactive)	The Secretary and/or his or her designee is authorized to make arrests and seize vessels and sponges.	Sponges	Monetary fine of not more than USD 500. Such fine shall be a lien against the vessel or boat on which the offense is committed.	Any citizen of the U.S., or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel.

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35	Stopping Vessels	Authorizes the USCG to stop vessels, including the firing of a warning signal and disabling fire at a vessel that does not stop, from a CG vessel or aircraft, or a DoD vessel with CG LEDET personnel embarked.	N/A	N/A	
36	Establishes an international commission for the scientific investigation of tuna.	The joint responsibility of the U.S. Coast Guard, the department of the Interior and the Bureau of customs.	Tuna	Civil penalty up to USD 120 000 (16 U.S.C. §957)	Any person who knowingly ships, transports, purchases, sells,... etc. fish taken or retained in violation of the Act; fails to make, keep, or furnish catch returns, or other reports as required.
37	Provides framework for implementing the 1946 international convention for the regulation of whaling	Authorized enforcement officer or employee of the Dept. of Commerce, Coast Guard, U.S. Marshall, etc.	Whales	Except as to violations of Sec. 916c(a)(3), fines up to USD 10 000 or imprisonment of not more than one year or both.	Any person, subject to the U.S. jurisdiction to engage in whaling in violation of the convention.

NOT FOR QUOTATION

EUROPEAN UNION**1. Legal measures and regulations**

1. The measures described below apply without distinction to national vessels within the Community EEZ and on the high seas, as well as in the EEZ of third countries, without prejudice to provisions regarding inspection specified in bilateral agreements with third countries:

a) *Fishing activities by national vessels*

2. EU Member States are responsible for implementing the measures set out in the Common Fisheries Policy and for putting in place procedures allowing those who violate regulations to be prosecuted and punished. These tasks must be fulfilled irrespective of the zone in which Community fishing vessels pursue their activities.

3. In addition, Member States are equally responsible for implementing the conservation and control measures drawn up by Regional Fishing Organisations in which the European Union is a Contracting Party or to which it has made a commitment to uphold such measures.

4. The various responsibilities of Member States in this area are specified in EU legislation (primarily Council Regulation (EC) No 2371/2002 ("Basic") and Council Regulation (EC) No 2847/93 ("Control")).

5. Member States are obliged to take appropriate measures with regard to the surveillance of infringements including, in accordance with their national legislation, the initiation of administrative action or criminal proceedings against those responsible where the rules of Common Fisheries Policy have not been respected. The proceedings initiated must be capable of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements, thereby effectively discouraging further offences of the same kind. Furthermore, EU legislation provides a list of sanctions that can be imposed according to the gravity of the offence, namely fines, seizure of prohibited fishing gear and catches, sequestration of the vessel, temporary immobilization of the vessel, suspension of the licence, withdrawal of the licence. Lastly, Council Regulation (EC) No 1447/1999 establishes a list of types of behaviour which seriously infringe the rules of the common fisheries policy and in regard to which greater transparency is required in terms of the response to such behaviour by national authorities. The procedure for notifying the European Commission of serious infringements and of the proceedings initiated is set out in Commission Regulation (EC) No 2740/1999.

6. With regard to the conditions applicable to fishing activities, EU legislation provides that a Community fishing vessel is prohibited from carrying out fishing activities in Community waters or the waters of a third country or on the high seas unless the following requirements are met:

- A fishing vessel must carry on board its licence and, where provided for, its authorisations for fishing;
- A fishing vessel must have installed on board a functioning system which allows detection and identification of that vessel by remote monitoring systems. At present, all Community fishing

vessels with an overall length of over 24 metres must be detectable by the satellite surveillance system (VMS). This requirement will apply to vessels with an overall length of over 18 metres as from 1st January 2004 and to vessels with an overall length of over 15 metres as from 1st January 2005;

- The master shall without undue delay record and report information on fishing activities, including landings and transshipments;
- The master shall accept inspectors and, where applicable, observers on board and co-operate with them
- The master shall respect conditions and restriction relating to landings, transshipments, joint fishing operations, fishing gear, nets and the marking and identification of vessels.

b) *Fishing activities by foreign vessels within the Community EEZ*

7. Vessels from third countries can fish within the Community EEZ provided that they are authorised to do so under bilateral agreements with those third countries.

8. The requirements listed in the last section of paragraph 1.a) also apply to fishing vessels registered under the flag of a third country operating in Community waters, in accordance with Title VI bis of Council Regulation No 2847/93 ("Control").

9. EU Member States are also responsible for implementing control measures and for introducing procedures for the prosecution and punishment of offenders for infringements committed within their national EEZ. These sanctions may include, *inter alia*, withdrawal of the fishing licence. In such cases, the Member State concerned informs the European Commission (which applies the sanction given that such licences are issued by the European Commission).

10. With regard to the fair treatment of those in possession of fishing licences or permits and those without such licences, it should be noted that any vessel fishing in EU waters must be authorised to do so.

c) *Registration of fishing vessels*

11. In 2001, prior to the entry into force of the Compliance Agreement, the European Union voluntarily communicated data from the Community fishing vessel register to the FAO (see Article VI on the exchange of information). This exchange of information can help to identify fishing vessels which jeopardise international conservation and management measures.

12. *With regard to the Community fishing vessel register:* in accordance with Council Regulation (EC) No 2090/98 amended by Commission Regulation (EC) No 839/2002, Member States must inform the European Commission of all data relating to the life of a fishing vessel in cases where such data are recorded in their national database.

13. *Owner/agent:* in accordance with Council Regulation (EC) No 839/2002, since January 2003, the name and address of the agent and place of construction of a vessel whose overall length is 15 metres or more or whose length between perpendiculars is 12 metres or more must be notified to the European Commission. With regard to the name and address of the owner, the applicable limits are an overall length of 27 metres and a length between perpendiculars of 24 metres. It will be mandatory to supply such data for all vessels as from January 2004.

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2. Economic measures**a) Investment rules***i) Trade rules (including trade-related rules)*

14. The European Community supports the use made by Regional Fisheries Organisations of trade measures aimed at ensuring that their conservation and management recommendations are properly implemented (cf. ICCAT). These measures can help to combat and eliminate illegal fishing.

15. Within the framework of the ICCAT and CCAMLR, imports and exports (of bluefin tuna and toothfish respectively) must be accompanied by statistical or catch documentation.

ii) Rules regarding landing, transshipments and marketing

16. Third country vessels must meet conservation and control measures as well as other provisions relating to the fishing activities of Community vessels in the zone in which they operate, in accordance in particular with Council Regulation (EC) 2847/93 and Council Regulation (EC) No 1627/94 laying down general provisions concerning special fishing permits.

b) Penalties, fees and restrictions to GFTs

17. In accordance with Council Regulation (EEC) No 2847/93 ("Control"), Member States must take measures in the event of failure to comply with the rules of the Common Fisheries Policy. Member States can initiate administrative action or criminal proceedings against the natural or legal persons responsible. Sanctions may include, depending upon the seriousness of the infringement, fines, seizure of prohibited fishing gear and catches, sequestration of the vessel, temporary immobilization of the vessel, suspension of the licence, withdrawal of the licence.

3. Other measures (including moral/ethical)

18. Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy establishes the responsibility of the Flag State with regard to its nationals. This provision matches the action plan against illegal fishing in placing the Flag State under the obligation to monitor its nationals. The aim is to discourage the nationals of Member States from committing infringements within the jurisdiction of a Member State that does not meet its obligations as a Flag State.