

Report of the

**TECHNICAL CONSULTATION TO REVIEW PORT STATE MEASURES
TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

Rome, 31 August – 2 September 2004



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PREPARATION OF THIS DOCUMENT

This is the final report approved by the participants at the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing, held in Rome, Italy, from 31 August to 2 September 2004.

FAO.

Report of the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. Rome, 31 August – 2 September 2004.

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ABSTRACT

This document contains the report of the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing which was held at FAO headquarters, Rome, from 31 August to 2 September 2004. The Technical Consultation was convened by the Director-General of FAO on the recommendation of the FAO Committee on Fisheries at its twenty-fifth session in February 2003. The objectives of the Technical Consultation were to address substantive issues relating to the role of the port State in combating IUU fishing and to address principles and guidelines for the establishment of regional memoranda on port States measures to prevent, deter and eliminate IUU fishing. Following its deliberations, the Technical Consultation approved a Model Scheme on Port State Measures to Combat IUU Fishing, strongly supported the proposed Programme of Assistance to facilitate human development and institutional strengthening in developing countries to promote the full and effective implementation of port States measures to combat IUU fishing, and supported the establishment of a database concerning relevant port State measures.

Distribution:

All FAO Members

Participants at the session

Other interested nations and national and international organizations

FAO Fisheries Department

FAO Regional Fishery Officers

CONTENTS

	Page
OPENING OF THE CONSULTATION	1
ELECTION OF THE CHAIRPERSON	1
ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE TECHNICAL CONSULTATION	2
ELECTION OF VICE-CHAIRPERSONS AND DESIGNATION OF RAPPORTEUR	2
PRESENTATION AND DISCUSSION OF THE REPORT OF THE EXPERT CONSULTATION TO REVIEW PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING, ROME, ITALY, 4-6 NOVEMBER 2002	2
OTHER MATTERS	6
ADOPTION OF THE REPORT	6
 APPENDIXES	
A: Agenda	7
B: List of participants	8
C: List of documents	21
D: Opening statement by Ichiro Nomura, Assistant Director-General, FAO Fisheries Department	22
E: Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing	24

OPENING OF THE CONSULTATION

1. On the recommendation of the FAO Committee on Fisheries (COFI) at its Twenty-fifth Session, the Director-General of FAO, Mr Jacques Diouf, convened the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. The Technical Consultation was held at FAO headquarters, Rome, Italy, from 31 August to 2 September 2004.

2. The Consultation was attended by 59 Members and observers, one non-Member nation of FAO, by representatives from four specialized agencies of the United Nations, and by observers from three intergovernmental and two international non-governmental organizations. The list of delegates and observers is given in Appendix B. The documents that were placed before the Consultation are listed in Appendix C.

3. The meeting was called to order by the Joint Secretary of the Consultation, Mr David J. Doulman from the FAO Fisheries Department. The other Joint Secretary of the Consultation was Ms Annick Van Houtte from the FAO Legal Office.

4. Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries Department, in his opening statement on behalf of the Director-General, noted that in 2001 FAO Members had endorsed the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). It had been elaborated within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries. He added that Members were grappling with the challenges of implementing the IPOA-IUU that addressed illegal, unreported and unregulated (IUU) fishing in a holistic manner. Mr Nomura stated that the focus of the Technical Consultation was clear: how to use port State measures as an effective instrument to prevent, deter and eliminate IUU fishing. He pointed out that the agenda for the Technical Consultation had been largely set by the outcome of the 2002 Expert Consultation. He added that the question of the elaboration of Regional Memoranda of Understanding on Port State Measures to Combat IUU Fishing would be at the center of the attention of the meeting, which was expected to discuss the draft Memorandum as proposed by the Experts. Mr Nomura stated that the Consultation would also address the elaboration of programmes of assistance to facilitate human development and institutional strengthening in developing countries so as to promote the full and effective implementation of port State measures against IUU fishing. A further agenda item concerned the establishment of a database for relevant port States measures. Mr Nomura concluded his statement by thanking the presence at this Consultation of Judge Thomas Mensah from the International Tribunal for the Law of the Sea who had chaired the 2002 Expert Consultation and acknowledging the cooperation of two UN specialized agencies, the International Maritime Organization (IMO) and the International Labour Organization (ILO), both of which had provided resource persons to the Secretariat. FAO welcomed this collaboration and interagency cooperation as a means of harmonizing the respective efforts of the three agencies to combat IUU fishing. The full text of the opening statement is attached as Appendix D.

ELECTION OF THE CHAIRPERSON

5. Mr Terje Lobach (Norway) was elected Chairperson of the Consultation.

ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE TECHNICAL CONSULTATION

6. The Consultation adopted the Agenda as given in Appendix A. The Chairperson outlined the timetable for the Consultation.

ELECTION OF VICE CHAIRPERSONS AND DESIGNATION OF RAPPORTEUR

7. Mr P K Pattanaik (India), Mr David Balton (USA) and Mr Mahmood Ibrahim Al Saghiry (Yemen) were elected First, Second and Third Vice-Chairpersons respectively and Ms Sonia Salaverria (El Salvador) the Rapporteur.

PRESENTATION AND DISCUSSION OF THE REPORT OF THE EXPERT CONSULTATION TO REVIEW PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING, ROME, ITALY, 4-6 NOVEMBER 2002

8. Mr Thomas A. Mensah introduced the Report of the Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. He highlighted the following points.

- Port State measures constitute a crucial link in the chain of any effort to combat IUU fishing.
- It is not practical to contemplate adopting a Memorandum of Understanding (MOU) on port State measures at a global level; the elements proposed by the Expert Consultation were for regional MOUs.
- These regional MOUs are but one of the several tools available to address IUU fishing.
- The elements within the MOU should be practical in terms of their application and enforcement.
- One important element is the control of access of vessels to the port.
- The MOU should apply to all vessels engaged in, or supporting, fishing activities, including fishing vessels and vessels transporting fish and fishery products, as well as vessels flying flags of non-compliance or vessels with a history of non-compliance according to measures established by regional fisheries management organizations (RFMOs).
- There is a need for a harmonized and coordinated approach to inspections.
- There is a need to use a unique numbering system for fishing vessels, similar to the IMO numbering system, which would include information on the owners and operators.
- There is a need for prior notice of port access so that there could be better control when the vessel arrived in port.
- There should be effective and credible sanctions, where fishing vessels are found to have violated applicable legislation in waters under the jurisdiction of the port State.
- For effective implementation of port State measures to prevent, deter and eliminate IUU fishing, exchanges of information are crucial.
- There is a need to promote the awareness about IUU fishing and a need to provide assistance to developing States. FAO should consider programmes of assistance.

9. Mr Mensah noted also that a database concerning relevant port State measures that could be used to combat IUU fishing would be discussed during the Consultation. He submitted the Report of the Expert Consultation for the consideration of the meeting.

10. All Members supported the concept of port State measures to combat IUU fishing and the FAO process that was being followed. The Consultation agreed that there was a need for a suite of model provisions to implement port State measures. Some Members pointed out that this approach did not exclude the need to prepare in the future an international instrument on the rights and obligations of port States.

11. Some Members stated that they had reservations about the MOU as a means of implementing the IPOA-IUU as it would create a further bureaucratic layer and that its establishment would be a lengthy process. They pointed out that RFMOs and their members already enjoy the necessary competence to adopt resolutions and regulations and that they should be encouraged to agree on the relevant port State measures to be taken in their respective regions. They supported the view that the Technical Consultation adopt a draft Resolution as a model to this effect.

12. Other Members considered that the elaboration of an international instrument providing general rules on port State inspections was needed to serve as a reference for action in the field of control of foreign fishing vessels. Therefore, they supported the adoption of a set of provisions recommendations, as proposed by the Technical Consultation describing basic and minimum port State measures, to be forwarded to COFI in 2005. Subsequent action could be taken either through the adoption of regional MOUs or through RFMOs, or at the level of individual port States, as appropriate.

13. The IMO resource person elaborated on the following points that could be of relevance to IUU fishing;

- Resolution A.925 (22) on the entry into force and implementation of the 1993 Torremolinos Protocol and the 1995 STCW-F Convention;
- The proposed convening of a second Joint IMO/FAO Working Group on IUU Fishing and Related Matters;
- The exchange of information between FAO and IMO on technical cooperation activities;
- The outcome of the second IMO Workshop for port State control MOUs/Agreement Secretaries and Directors of Information Centres;
- The forthcoming second Ministerial Conference of the Paris and Tokyo MOUs;
- The guidelines on port State control measures with regard to security;
- The Automatic Identification System (AIS);
- The IMO numbering schemes (IMO Ship Identification Numbers Schemes and the unique company and register owner identification number schemes);
- The Continuous Synopsis Record (CSR);
- The Global Integrated Shipping Information System;
- The Voluntary IMO Member Audit Scheme and the code for the implementation of (mandatory) IMO instruments; and
- The importance of the number of casualties in fishing activities and of enhanced cooperation between flag States and port States.

14. The resource person from the International Labour Office described the experiences of his organization concerning port state control of merchant ships for compliance with international standards for seafarers. Particular reference was given to the importance of coordination at the national level between the government agencies concerned with port state control. This involved ensuring that the legal provisions are sufficiently clear for port State control officers to take action and that the port State control officers receive sufficient guidance and training especially if they do not have a background in the area concerned. Specific to fishing, the resource person added that ILO was in the midst of developing a comprehensive standard (A Convention and a Recommendation) on work in the fishing sector.

Consideration of the Draft Memorandum of Understanding on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing

15. The Consultation agreed that it would examine the elements contained in the draft Memorandum of Understanding on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing contained in Appendix E of document TC PSM/2004/2 on a paragraph by paragraph basis. The revised draft document is attached as Appendix E.

16. After a thorough exchange of views and taking into account, among others, the mandate it had received from COFI, the Technical Consultation agreed that the document should be titled “model scheme”. This model scheme would be considered as constituting principles and guidelines to be used by States as a reference for the negotiation and adoption of regional MOUs or of resolutions or recommendations within RFMOs, as well as alternatively for the adoption of measures by Port States at the national level. The Technical Consultation highlighted that concerted action at the regional level should be encouraged and that these principles and guidelines did not prevent the adoption of additional and eventually stricter measures, provided that such measures be consistent with the applicable rules of international law.

17. The provisions contained in the model scheme are for consideration and adoption as appropriate, by States, RFMOs and at the regional level. The model scheme does not affect the competences of RFMOs with respect to port State measures.

18. The Legal Counsel advised that the model scheme which was reviewed and discussed during the Consultation was a framework, a set of minimum requirements which States, RFMOs or others could use and consult when developing port State measures. In the current context, there is no question of “reservations” as reflected in public international law. The model scheme is voluntary in nature.

19. Japan reserved its position with respect to Appendix E of the report of the Technical Consultation on the basis of its view in terms of the application and implementation of international law. Japan also noted that the document did not consider the different characteristics of fisheries and fish products and that flexibility was required to accommodate such differences.

Programmes of assistance to facilitate human development and institutional strengthening, including legal assistance, in developing countries so as to promote the full and effective implementation of port State measures to combat illegal, unreported and unregulated fishing

20. The Consultation considered this item on the basis of document TC PSM/2004/3, which was supplemented by an introduction by the Secretariat. It was pointed out that in view of the novelty, complexity, and interdisciplinary nature of the issues involved in IUU fishing and, in particular, port State measures, the need to enhance human resources development and strengthen institutions to address these important and emerging issues cannot be over-emphasized. Furthermore, while expertise in the conventional areas of control will continue to be important, the rapid pace of change in information technology required that those with responsibility for port State measures in developing countries acquired appropriate additional and updated knowledge and skills.

21. There was strong support in principle for the general aims of the proposed Programme of Assistance. Many Members made observations concerning the structure and delivery mechanisms outlined in the document. Several Members pointed out that the Programme should be designed primarily to assist developing countries in achieving their specific national objectives, in keeping with the IPOA-IUU.

22. The Consultation noted that while FAO should play a key role in the design and implementation of the Programme, active participation and concrete support from governments, international and regional organizations, as well as donor agencies and financial institutions would be necessary. In this regard, the Consultation emphasized the need for strengthened collaboration between FAO, IMO and ILO.

23. The Secretariat informed the Consultation that the budget estimates provided in the document for the regional workshops and follow-up activities at national level were tentative approximations. These would be adjusted in the course of formulating the proposal in greater detail. The Consultation was further informed that while FAO would continue to provide financial resources in respect to activities to combat IUU fishing, additional funding required in the framework of port State measures would probably have to be sought from extra-budgetary sources.

24. Some Members expressed their willingness to consider the provision of financial resources in support of the proposal in due course. Others, however, indicated that they would like to see the activities supported from the regular budget of FAO. The Consultation invited FAO to engage in discussions with donor agencies and financial institutions with a view to obtaining the necessary funds to enhance human capacity development and institutional strengthening on port State measures in developing countries.

25. The Consultation recommended that a refined draft of the proposal, as concise and short as the need to be comprehensive permitted, should be prepared by the Secretariat, in consultation with IMO and ILO as appropriate, for consideration by the Twenty-sixth Session of the Committee on Fisheries in 2005.

Establishment of a database concerning relevant port States measures

26. The Secretariat introduced document TC PSM/2004/4 entitled “Establishment of a database concerning relevant port state measures”. The paper proposed the establishment of an FAO database that could draw on existing databases held in the FAO Legal Office and in the Fisheries Department. The paper also set up the steps required to establish such a database. It could contain measures that had been adopted by RFMOs and FAO Members in implementing port State measures.

27. The Technical Consultation supported the establishment of such a database. However, some questions were raised and clarifications sought concerning funding and maintenance of the proposed database as well as the information to be held in the database.

28. The IMO resource person provided a history of the development of port State control databases at regional, interregional and global levels and referred to:

- Equasis, which was established by the European Commission and France;
- The information Systems created by the port State control MOUs/Agreement; and
- The development of the Global Integrated Shipping Information System (GISIS) on, *inter alia*, security, port State control and casualties-related data.

OTHER MATTERS

29. No other matters were discussed.

ADOPTION OF THE REPORT

30. The report of the Technical Consultation was adopted on 2 September 2004.

Agenda

OPENING OF THE CONSULTATION

ELECTION OF THE CHAIRPERSON

ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE TECHNICAL CONSULTATION

ELECTION OF VICE-CHAIRPERSONS AND DESIGNATION OF RAPPORTEUR

PRESENTATION AND DISCUSSION OF THE REPORT OF THE EXPERT CONSULTATION TO REVIEW PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING, ROME, ITALY, 4-6 NOVEMBER 2002

- Consideration of the Draft Memorandum of Understanding on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing
- Programmes of assistance to facilitate human development and institutional strengthening, including legal assistance, in developing countries so as to promote the full and effective implementation of port State measures to combat illegal, unreported and unregulated fishing
- Establishment of a database concerning relevant port States measures

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List of documents

TC PSM/2004/1	Agenda and Timetable
TC PSM/2004/2	Report of the Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. Rome (4-6 November 2002)
TC PSM/2004/3	Programmes of assistance to facilitate human resource development and institutional strengthening in developing countries so as to promote the full and effective implementation of port State measures to combat illegal, unreported and unregulated fishing
TC PSM/2004/4	Establishment of a database concerning relevant port State measures
TC PSM/2004/Inf.1	List of documents
TC PSM/2004/Inf.2	List of participants
TC PSM/2004/Inf.3	Statement of Competence and Voting Rights by the European Community and its Member States

Opening statement
by
Ichiro Nomura,
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Good morning, ladies and gentlemen:

On behalf of the Director-General of FAO, Mr Jacques Diouf, it gives me much pleasure to welcome you to FAO and to Rome for this Technical Consultation.

Illegal, unreported and unregulated (IUU) fishing is an issue of grave concern for us all. It has been addressed in a range of global fora including the United Nations and FAO as well as in most regional fisheries organizations (RFBs). IUU fishing undermines efforts to conserve and manage fish stocks in a sustainable manner and inhibits the achievement of responsible fisheries.

In 2001, FAO Members, recognizing the threat of IUU fishing, developed within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries, an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).

Three years later, FAO Members are still grappling with the challenges and practical aspects of implementing the IPOA-IUU, including the development of national plans of action to further achieve its objectives and give full effect to its provisions.

It is important to stress that the IPOA-IUU addresses IUU fishing in a holistic manner and, therefore, contemplates a wide range of measures to be taken and identifies a number of relevant stakeholders, including States, international organizations and the relevant sectors and components of the civil society. The IPOA-IUU constitutes thus a kind of “tool kit” from which countries are invited to select measures, mixing and matching them, to meet their particular needs and circumstances.

Among this variety of stakeholders and measures to be adopted by them, of special importance are those related to port States. Significantly, the IPOA-IUU dedicates a whole section to the issue of port State measures and, in that respect, goes further and deeper than previously negotiated instruments such as the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement. Port State control or rather the weakness or absence of it is often quoted as one of the weak links in the chain that facilitates IUU fishing; contrariwise, port State measures may be one of the most effective ways of fighting IUU fishing.

Such is the issue that this Technical Consultation must consider. The focus of the Technical Consultation is clear and unambiguous: how to use port State measures as an efficient instrument to prevent, deter and eliminate IUU fishing.

This Technical Consultation has been convened in accordance with a decision taken by the Committee on Fisheries (COFI), during its Twenty-fifth Session in February 2003, when it endorsed a proposal made to this effect by the 2002 FAO Expert Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing.

The agenda for this Technical Consultation is thus set to the outcome of the 2002 Expert Consultation. I wish to call your attention on the report of that meeting, which is before the Technical Consultation as Document TC PSM/2004/2.

I also wish to take this opportunity to pay tribute to Judge Thomas Mensah, from the International Tribunal for the Law of the Sea, for the most capable and skilful manner with which he chaired the 2002 Expert Consultation. We look forward to his presentation of the Report on the 2002 Expert Consultation and the other advice and guidance that he might be able to give us during the meeting.

At the very core of our attention is the question of the elaboration of Regional Memoranda of Understanding on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. The 2002 Expert Consultation has proposed a Draft Memorandum, and it is expected that this Technical Consultation will address it in some detail.

The 2002 Expert Consultation also recommended the elaboration of programmes of assistance to facilitate human development and institutional strengthening in developing countries so as to promote the full and effective implementation of port State measures to combat IUU fishing. This is in line with the recognition of the special requirements of developing countries as stated in Article 5 of the Code of Conduct for Responsible Fisheries and other relevant international instruments. I wish to draw your attention to Document TC PSM/2004/3, which deals with this important issue.

Finally, I would also refer to the third recommendation of the 2002 Expert Consultation. This recommendation concerns the establishment of a database concerning relevant port State measures. I wish to draw your attention to Document TC PSM/2004/4. To my knowledge no such database exists at the present time that is generally accessible. Its establishment would fill a gap and provide information about port State measures and practices in a cost-effective manner.

Before concluding, I would like to acknowledge the cooperation of two UN Specialized Agencies in this Technical Consultation. Officers from the International Maritime Organization (IMO) and the International Labour Organization (ILO) are participating in this meeting and are serving as resource persons to the Secretariat. FAO welcomes this collaboration and inter-agency cooperation as a means of harmonizing the respective efforts of the three agencies to combat IUU fishing.

In conclusion I would like to note that the outcome of this Technical Consultation will be presented to the Twenty-sixth Session of COFI in March 2005. I am confident that COFI will take much interest in the report of the meeting and provide guidance for appropriate follow-up actions.

I hope you will have spirited and fruitful discussions during this Consultation. If my colleagues or I can be of assistance over the next three days please do not hesitate to contact us.

Thank you very much.

**Model Scheme
on Port State Measures to Combat Illegal,
Unreported and Unregulated Fishing**

In developing this Model Scheme, Members,

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

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

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

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

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

Emphasizing the need for non-Members and fishing entities to take action consistent with this Model Scheme;

should be guided by the following:

General

1. In this Model Scheme,

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

1.2 references to fishing vessel includes any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels and any other vessels directly involved in such fishing operations.

2. A Port State should:

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

2.2 maintain an effective system of port State control for foreign fishing vessels calling at its port, with a view to promoting the effectiveness of relevant¹ conservation and management measures;

¹ The creation of a list of relevant conservation and management measures for a particular Model Scheme might be required.

- 2.3 designate and publicize ports to which foreign fishing vessels may be permitted access and ensure that these ports have the capacity to conduct port State inspections;
- 2.4 require, prior to allowing port access to a foreign fishing vessel, that the vessel provides a reasonable advance notice prior to entering its port or its EEZ for the purpose of port access, which includes, with due regard to confidentiality requirements, vessel identification, the authorization(s) to fish, information on its fishing trip and vessel monitoring systems, quantities of fish on board and other documentation, as described in Annex A;
- 2.5 not allow a vessel to use its ports for landing, transshipping or processing fish if the vessel which caught the fish is entitled to fly the flag of a State that is not a contracting or cooperating party of a regional fisheries management organization or has been sighted as being engaged in, or supporting, IUU fishing activities in the area of that particular regional fisheries management organization or in the waters under the jurisdiction of a relevant coastal State, unless the vessel can establish that the catch was taken in a manner consistent with the relevant conservation and management measures;
- 2.6 where there are clear grounds for believing that a fishing vessel has engaged in or supported IUU fishing in waters beyond the limits of its fisheries jurisdiction, refuse to allow the vessel to use its port for landing, transshipping, refuelling or re-supplying;
- 2.7 not allow a vessel to use its ports for landing or transshipment where it has been established that the vessel is identified by a regional fisheries management organization as engaging in, or supporting, fishing activities in contravention with its conservation and management measures;
- 2.8 ensure that port State inspections take place in accordance with Annex B² and obtain, in the course of such inspections, at least the information listed in Annex C; and
- 2.9 consult, cooperate and exchange information with [other States] in order to facilitate the implementation of this Model Scheme.

Inspections

3. In implementing this Model Scheme, each port State should:
- 3.1 carry out inspections of foreign fishing vessels in its ports for the purpose of monitoring compliance with relevant³ conservation and management measures;
- 3.2 ensure that inspections are carried out by properly qualified persons authorized for that purpose, having regard in particular to Annex D;
- 3.3 ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate identity document;

² An annual total number of inspections corresponding to at least XX % of the number of individual vessels to which the Model Scheme applies should be agreed upon. In organizing the inspections, priority will be given to vessels flying flags of non-cooperating non-contracting Parties or vessels believed to have engaged in IUU fishing, while recognizing that inspection in port should be carried out on a non-discriminatory basis.

³ See footnote 1.

3.4 ensure that an inspector can examine any areas of the fishing vessel that is required, the catch (whether processed or not), the nets and any other gear, equipment, and any document which the inspector deems necessary to verify compliance with relevant⁴ conservation and management measures;

3.5 ensure that the master of the vessel is required to give the inspector all necessary assistance and information, to present relevant material and documents as may be required, or certified copies thereof;

3.6 subject to appropriate arrangements with the flag State of a vessel, invite the flag State to participate in the inspection;

3.7 make all possible efforts to avoid unduly delaying a vessel and ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided;

3.8 ensure that an inspector is accompanied, where possible and where needed, by an interpreter of the language of the inspected foreign fishing vessel;

3.9 ensure that inspections are not conducted in a manner that would constitute harassment of any fishing vessel; and

3.10 ensure that the result of a port inspection is presented to the master of the vessel and that the report is completed and signed by the inspector and the master. The master should be given the opportunity to add any comment to the report and to contact the relevant authorities of the flag State, in particular when (s)he has serious difficulties in understanding the contents of the report.

Actions

4. When, following an inspection, an inspector finds that there is reasonable evidence for believing that a foreign fishing vessel has engaged in, or supported, IUU fishing activities which include, but are not limited to, the following:⁵

- a) fishing without a valid licence, authorization or permit issued by the flag State or the relevant coastal State;
- b) failing to maintain accurate records of catch and catch-related data;
- c) fishing in a closed area, fishing during a closed season or without, or after attainment of a quota;
- d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- e) using prohibited fishing gear;
- f) falsifying or concealing the markings, identity or registration of the vessel;
- g) concealing, tampering with or disposing of evidence relating to an investigation;
- h) conducting multiple violations which together constitute a serious disregard of relevant conservation and management measures;
- i) failure to comply with Vessel Monitoring Systems (VMS) requirements; and
- j) taking or landing undersized fish in contravention with relevant conservation and management measures;

⁴ See footnote 1.

⁵ This list may be changed on a region by region basis including by RFMOs.

then the port State should promptly notify the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organizations.⁶

5. The port State should take due note of any reply or any actions proposed or taken by the flag State of the inspected vessel.⁷ Unless the port State is satisfied that the flag State has taken or will take adequate action, the vessel should not be allowed to land or transship fish in its ports. The port State may take other actions with the consent of, or upon the request of, the flag State.

Information

6. The port State should report on the results of its inspections under this Model Scheme to the flag State of the inspected vessel, and other relevant States, and to relevant regional fisheries management organizations.

7. The port State should establish a communication mechanism that allows for direct, computerized exchange of messages between relevant States, entities and institutions, with due regard to appropriate confidentiality requirements.

8. The port State should handle the information in a standardized form and in accordance with Annex D.

Others

9. Nothing in this Model Scheme should prevent any fishing vessel from being allowed port access in accordance with international law for reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

10. Nothing in this Model Scheme affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

11. All measures provided for under this Model Scheme and any additional related measures, should be taken and applied in accordance with international law.

12. All measures provided for under this Model Scheme should be implemented in a fair, transparent and non discriminatory manner.

⁶ In each region there may be reference to applicable international instruments.

⁷ It is recommended that there should be established a list of contact points in the relevant administration of each Member to the Model Scheme.

Information to be provided in advance by foreign fishing vessels**1. Vessel identification**

- Name of the vessel;
- External Identification Number;
- International Radio Call Sign;
- Flag State;
- Vessel owner (name and address of the vessel owner);
- Type of VMS required by the Flag State; and
- Previous Names (s) and Flag State(s), if any.

2. Purpose of access to port**3. Fishing authorization (licenses/permits)⁸**

- The vessel's authorization(s) to fish;
- State(s) issuing the authorization(s);
- Areas, scope and duration of the authorization(s);
- Species and quota authorized; and
- Fishing gear authorized.

4. Trip information

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

5. Species information

- Fish species and fishery products onboard, particularly those to be landed;
- Areas of capture;
- Presentation (product form);
- Processed weight; and
- Equivalent live weight.

⁸ For support ships, carrier vessels and any other similar vessels, information required may vary.

Port State Inspection Procedures of Foreign Fishing Vessels

1. Vessel identification

The port inspector(s) should:

- a) verify that the official documentation onboard is valid, if necessary, through appropriate contacts with the flag State or international records of fishing vessels;
- b) be assured that the flag, the external identification number (and IMO ship identification number when available) and the international radio call sign are correct;
- c) examine whether the vessel has changed flag and, if so, note the previous name(s) and flag(s);
- d) note the port of registration, name and address of the owner (and operator if different from the owner) and the name of the master of the vessel, including the unique ID for company and registered owner if available; and
- e) note name(s) and address(es) of previous owner(s), if any.

2. Authorization(s)

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

3. Other documentation

The port inspector(s) should review all relevant documentation⁹ which may include various logbooks, in particular the fishing logbook, as well as stowage plans and drawings or descriptions of fish holds if available. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans. Where available, this documentation should also include catch documents issued by any regional fisheries management organization, trade documents or, if applicable, CITES documents.

4. Fishing gear

- a) The port inspector(s) should verify that the fishing gear on board is in conformity with the conditions of the authorization(s). The gear may also be checked to ensure that the mesh size(s) (and possible devices), length of nets, hook sizes etc. are in conformity with applicable regulations and that identification marks of the gear correspond to those authorized for the vessel.
- b) The port inspector(s) may also search the vessel for any fishing gear stowed out of sight.

⁹ It is understood that documentation includes documents in electronic format.

5. Fish and fishery products

- a) The port inspector(s) should, to the greatest extent possible, examine whether the fish and fishery products on board are harvested in accordance with the conditions set out in the authorization. In doing so, the port inspector(s) should examine the fishing logbook, reports submitted, including those resulting from a vessel monitoring system (VMS), as appropriate.
- b) In order to determine the quantities and species which are fresh on ice, frozen but not packed, processed, packed or in bulk, the port inspector(s) may examine the fish in the hold or during the landing. In doing so, the port inspector(s) may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.
- c) If the vessel is unloading, the port inspector(s) may, to the greatest extent possible, verify the species and quantities landed. Such verification may include presentation (product form), live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. The port inspector(s) may also examine any possible quantities retained onboard.
- d) If the port inspector(s) has reasonable grounds to believe that a vessel has engaged in, or supported IUU fishing, the port inspector(s) should as soon as possible contact the flag State authorities to verify whether the fish and fishery products have been harvested or collected in the areas as recorded in the relevant documents. To this effect, the port inspector(s) may also review the quantity and composition of all catch onboard, including by sampling.

6. Report

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

Results of Port State Inspections

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

1. Inspection references

- inspecting authority (name of inspecting authority or the alternate body nominated by the authority);
- name of inspector;
- port of inspection (place where the vessel is inspected); and
- date (date the report is completed).

2. Vessel identification

- name of the vessel;
- type of vessel;
- external identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate;
- international Radio Call Sign;
- MMSI-number (Maritime Mobile Service Identity number), if available;
- flag State (State where the vessel is registered);
- previous name(s) and flag(s), if any;
- whether the flag State is party to a particular regional fisheries management organization;
- home port (port of registration of the vessel) and previous home ports;
- vessel owner (name and address of the vessel owner);
- vessel operator responsible for using the vessel if different from the vessel owner;
- name(s) and address(es) of previous owner(s), if any; and
- name and certificate(s) of master.

3. Fishing authorization (licenses/permits)

- the vessel's authorization(s) to fish;
- State(s) issuing the authorization(s);
- areas, scope and duration of the authorization(s);
- species and fishing gear authorized; and
- transshipment records and documents¹⁰ (where applicable).

4. Trip information

- date trip commenced (date when the current trip started);
- areas visited (entry to and exit from different areas);
- areas where fish and fishery products were captured or collected;
- ports visited (entry into and exit from different ports); and
- date trip ended (date when the current trip ended).

¹⁰ The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Annex B.

5. Result of the inspection on discharge

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

6. Quantities retained on board the vessel

- fish species;
- presentation (product form);
- relevant conversion factor;
- processed weight; and
- equivalent live weight.

7. Results of gear inspection

- details of gear type inspected and attachments, if any.

8. Conclusions

- conclusions of the inspection including identification of the violations presumably committed and reference to the rules which have been presumably not complied with.

Training of Port State Inspectors¹¹

Elements of a training programme of port State inspectors should at least include the following:

- 1) Training in inspection procedures
- 2) Provision of information on relevant conservation and management measures, as well as relevant laws and regulations and applicable rules of international laws;
- 3) Information sources, such as log books and other electronic information that may be useful for the validation of information given by the master of the vessel;
- 4) Fish species identification and measurement calculation;
- 5) Catch landing monitoring, including determining conversion factors for the various species and products;
- 6) Vessel boarding/inspection, hold inspections and calculation of vessel hold volumes; gear measurements and inspections;
- 7) Collection, evaluation and preservation of evidence;
- 8) Range of measures available following the inspection; and
- 9) Training in relevant languages, particularly English.

¹¹ More extensive criteria should be developed for the qualification (e.g. skills and knowledge) of port State inspectors. The skills and knowledge listed below are minimum requirements.

Information System on port State Inspections

1. Computerized communication between States as well as between States and relevant regional fisheries management organizations would require the following:

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

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

- States: 3-ISO Country Code;
- fish species: FAO 3-alpha code;
- fishing vessels: FAO alpha code;
- gear types: FAO alpha code;
- devices/attachments: FAO 3-alpha code; and
- ports: UN LO-code.

3. Data elements shall at least include the following:

- inspection references;
- vessel identification;
- fishing authorization(s) (licenses/permits);
- trip information;
- result of the inspection on discharge;
- quantities staying on board the vessel;
- result of gear inspection;
- irregularities detected;
- actions taken; and
- information from the flag State.

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This document contains the report of the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing which was held at FAO headquarters, Rome, from 31 August to 2 September 2004. The Technical Consultation was convened by the Director-General of FAO on the recommendation of the FAO Committee on Fisheries at its twenty-fifth session in February 2003. The objectives of the Technical Consultation were to address substantive issues relating to the role of the port State in combating illegal, unreported and unregulated (IUU) fishing and to address principles and guidelines for the establishment of regional memoranda on port States measures to prevent, deter and eliminate IUU fishing. Following its deliberations, the Technical Consultation approved a Model Scheme on Port State Measures to Combat IUU Fishing, strongly supported the proposed Programme of Assistance to facilitate human development and institutional strengthening in developing countries to promote the full and effective implementation of port States measures to combat IUU fishing, and supported the establishment of a database concerning relevant port State measures.

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