



**CCSBT– CCWG/1404/BGD01**

*(Previously CCSBT-CC/1310/07)*

## **Draft CCSBT Port State Measures Resolution**

### **Introduction**

Evaluating ways to effectively implement Port State obligations is one of the action items in CCSBT's Compliance Plan. The Seventh Meeting of the Compliance Committee (CC7) agreed that the Executive Secretary would prepare a draft set of CCSBT Port State Measures (PSM) for consideration by the next annual meeting of the Compliance Committee. It was also agreed that the draft be circulated to Members for intersessional comment in advance of that meeting. The draft was circulated for comment on 17 June 2013.

### **Development of the Draft Resolution**

Recognising the Secretariat's significant workload for 2013, New Zealand offered (at CCSBT 19) to support the development of a set of CCSBT Port State Measures by preparing a draft for the Secretariat to consider. The draft prepared by New Zealand is provided at **Attachment A**.

In developing the initial draft, New Zealand considered the guidance provided at CC7 that the draft PSM should draw on the content of the FAO Port State Measures Agreement and other tuna RFMO Conservation and Management Measures as appropriate. Therefore, the draft presented here contains similar wording to that found in the FAO Agreement. Where necessary, that wording has been modified by New Zealand to reflect the narrower scope of the CCSBT and its existing systems and processes.

The following documents are provided as background material for Members:

- FAO's Port State Measures Agreement approved by the FAO Conference at its Thirty-sixth Session (Rome, 18-23 November 2009) as Resolution No 12/2009 and dated 22 November 2009 (and not yet in force) at **Attachment B**,
- IOTC's Resolution 10/11 on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing at **Attachment C**, and
- ICCAT's Recommendation 12-07 for an ICCAT Scheme for Minimum Standards for Inspection in Port at **Attachment D**.

Note that ICCAT's recommendation 12-07 is referenced in Japan's comments below.

### **Benefits of Adopting a CCSBT PSM Resolution**

Adoption of a PSM by the CCSBT would enhance its existing Monitoring, Control and Surveillance (MCS) tools such as the Catch Documentation Scheme and the Resolutions relating to transshipment and authorised vessels. For that reason, the draft PSM Resolution should be considered in conjunction with existing systems and requirements of the CCSBT rather than in isolation.

### **Comments Received on the Draft CCSBT PSM Resolution**

Australia, Japan and Taiwan provided feedback on the initial draft PSM developed by New Zealand and also expressed their appreciation of New Zealand's contribution in terms of developing the draft.

A summary of the comments provided is presented below.

***Australia***

Australia noted that it had no substantial comments/changes to make on the draft Port State Measures Resolution, and would be happy to work with Members in a drafting group (possibly during the Compliance Committee period) to prepare a provisional measure for discussion at the next Extended Commission meeting.

***Japan***

Japan provided the following comment:

*“At the current point, none of the CCSBT Members has ratified the FAO Port State Measures Agreement. In order to facilitate efficient, effective and rapid introduction of a port state measure into CCSBT, we think the relevant measure that has been most recently adopted by a tuna RFMO, the Recommendation by ICCAT for an ICCAT Scheme for Minimum Standard for Inspection in Port (Recommendations are legally binding in ICCAT), should serve as a practical base for consideration of such a measure.*

*For reference, the ICCAT Recommendation adopted last year is attached. Japan requests that CCSBT will introduce a port state measure similar to the ICCAT’s measure.”*

As noted earlier, ICCAT’s Recommendation 12-07 for an ICCAT Scheme for Minimum Standards for Inspection in Port to which Japan refers above is provided at **Attachment D**.

***Taiwan***

Taiwan provided the following comment:

*“Considering that the content of port state measure involves various issues, therefore, we would like to discuss this draft resolution with other members in the Compliance Committee meeting.”*

**Prepared by the Secretariat**

## **CCSBT Draft Port State Measures Resolution**

### **Preamble**

The Extended Commission for the Conservation of Southern Bluefin Tuna (CCSBT),

*Aware* of the risk posed by illegal, unreported and unregulated trade in southern bluefin tuna;

*Conscious* of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of southern bluefin tuna;

*Recognising* that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available measures in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing;

*Recognising* that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing;

*Recognising* the FAO Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome on 22 November 2009, and the need to avoid duplication or incompatible measures;

*Recalling* obligations under the CCSBT Catch Documentation Scheme to control imports of southern bluefin tuna;

*Bearing in mind* that in the exercise of their sovereignty over ports located in their territory States may adopt more stringent measures, in accordance with international law;

*Recalling* the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 (the Convention);

*Recalling* the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries;

*Agrees that:*

## **1. General Provisions**

### *Use of terms*

1.1. For the purpose of this resolution:

- (a) “conservation and management measures” means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law;
- (b) “Executive Secretary” means the Executive Secretary of the Commission for the Conservation of Southern Bluefin Tuna;
- (c) “fishing” means searching for, attracting, locating, catching, taking or harvesting southern bluefin tuna or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of southern bluefin tuna;
- (d) “fishing related activities” means any operation in support of, or in preparation for, fishing for southern bluefin tuna, including the landing, packaging, processing, transshipment or transporting of southern bluefin tuna that have not been previously landed at a port, as well as the provision of personnel, fuel, gear and other supplies at sea;
- (e) “illegal, unreported and unregulated (IUU) fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as ‘IUU fishing’;
- (f) “port” includes offshore terminals and other installations for landing, transshipping, processing, refuelling or resupplying;
- (g) “southern bluefin tuna” means a fish of the species *Thunnus maccoyi*, whether processed or not;
- (h) “vessel” means any vessel, ship of another type and boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

*Application*

- 1.2. Each Port State Extended Commission Member or Cooperating Non-Member shall, in its capacity as a port State, apply this Resolution in respect of vessels that are not entitled to fly its flag that are seeking entry to its port(s) or are in one of its ports, except for:
  - (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence provided that the port State and the flag State cooperate to ensure that those vessels do not engage in and/or support IUU fishing; and
  - (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that those vessels have engaged in IUU fishing related activities.
- 1.3. A Port State Extended Commission Member or Cooperating Non-Member in its capacity as a port State may choose not to apply this Resolution to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Those vessels shall be subject to measures by the Port State Extended Commission Member or Cooperating Non-Member which are as effective as measures applied in relation to vessels flying its flag.
- 1.4. This Resolution shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.
- 1.5. Port State Extended Commission Members and Cooperating Non-Members shall encourage all other entities to apply measures consistent with its provisions including non-cooperating non-members of the CCSBT.

*Cooperation and exchange of information*

- 1.6. In order to promote the effective implementation of this Resolution and with due regard to appropriate confidentiality requirements, Port State Extended Commission Members and Cooperating Non-Members shall cooperate and exchange information with other Extended Commission Members and Cooperating Non-Members

## 2. Entry into Port

### *Designation of ports*

- 2.1. Each Port State Extended Commission Member or Cooperating Non-Member shall designate and publicise the ports to which vessels may request entry pursuant to this Resolution. Each Port State Extended Commission Member or Cooperating Non-Member shall provide a list of its designated ports to the Executive Secretary, which shall give it due publicity using the CCSBT website.
- 2.2. Each Port State Extended Commission Member or Cooperating Non-Member shall, to the greatest extent possible, ensure that every port designated and publicised in accordance with paragraph 2.1 has sufficient capacity to conduct inspections pursuant to this Resolution.

### *Advance request for port access*

- 2.3. Each Port State Extended Commission Member or Cooperating Non-Member shall require, as a minimum standard, the information set out in Annex A to be provided before granting a vessel entry to its port.
- 2.4. Each Port State Extended Commission Member or Cooperating Non-Member shall require the information referred to in paragraph 2.3 to be provided sufficiently in advance to allow adequate time for the port State to examine the required information.

### *Port entry, authorization or denial*

- 2.5. After receiving the relevant information required pursuant to paragraph 2.3, as well as such other information as it may require to determine whether the vessel requesting entry into port has engaged in IUU fishing for southern bluefin tuna or fishing related activities in support of such fishing, each Port State Extended Commission Member or Cooperating Non-Member shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.
- 2.6. In the case of authorisation of entry, the master of the vessel or the vessel's representative shall present the authorisation for entry into the port upon request from the competent authorities of the Port State Extended Commission Member or Cooperating Non-Member.
- 2.7. In the case of denial of entry under this resolution, each Port State Extended Commission Member or Cooperating Non-Member shall communicate its decision taken pursuant to paragraph 2.5 to the flag State of the vessel and the Executive

Secretary who will communicate this to the other CCSBT Members and Cooperating Non-Members.

- 2.8. Without prejudice to paragraph 2.5, when a Port State Extended Commission Member or Cooperating Non-Member has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing for southern bluefin tuna or fishing related activities in support of such fishing, the Port State Extended Commission Member and Cooperating Non-Member shall deny that vessel entry into its ports.
- 2.9. Notwithstanding paragraphs 2.4 and 2.5, a Port State Extended Commission Member and Cooperating Non-Member may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.
- 2.10. When a vessel referred to in paragraph 2.8 or 2.9 is in port for any reason, the Port State Extended Commission Member and Cooperating Non-Member shall deny such vessel the use of its ports for landing, transshipping, packaging, or processing of fish or for other port services including, inter alia, refuelling and resupplying, maintenance and dry docking. Paragraphs 3.2 and 3.3 shall apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

*Force majeure or distress*

- 2.11. Nothing in this Resolution affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress or prevents a port State from permitting entry into port to a vessel, exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

**3. Use of Ports**

*Use of ports*

- 3.1. When a vessel has entered one of its ports, a Port State Extended Commission Member and Cooperating Non-Member shall deny, pursuant to its laws and regulations and consistent with international law, that vessel the use of the port for landing, transshipping, packaging or processing of southern bluefin tuna that have not been previously landed or for other port services, including, inter alia, refueling and resupplying, maintenance and dry docking, if:

- (a) the Port State Extended Commission Member or Cooperating Non-Member finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State;
- (b) the Port State Extended Commission Member or Cooperating Non-Member finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that coastal State;
- (c) the Port State Extended Commission Member or Cooperating Non-Member finds that the vessel is not currently included in the CCSBT Record of Authorised Vessels (for fishing vessels) or the CCSBT Record of Carrier Vessels (for carrier vessels), in accordance with the definitions contained within the Resolutions establishing these Records;
- (d) the Port State Extended Commission Member or Cooperating Non-Member receives clear evidence that the southern bluefin tuna on board was taken in contravention of applicable requirements of the CCSBT;
- (e) the flag State does not confirm within a reasonable period of time on the request of the port State that the southern bluefin tuna on board was taken in accordance with applicable requirements of the CCSBT, such as the catch documentation scheme; or
- (f) the Port State Extended Commission Member or Cooperating Non-Member has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing for southern bluefin tuna or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 2.8, unless the vessel can establish:
  - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
  - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not at the time of provisioning a vessel referred to in paragraph 2.8.

3.2. Notwithstanding paragraph 3.1, a Port State Extended Commission Member and Cooperating Non-Member shall not deny a vessel referred to in that paragraph the use of port services essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven.

3.3. Where a Port State Extended Commission Member and Cooperating Non-Member has denied the use of its ports, it shall promptly notify the flag State of the vessel and the



Executive Secretary of its decision who will communicate this to the other Extended Commission Members and Cooperating Non-Members

- 3.4. A Port State Extended Commission Member or Cooperating Non-Member shall withdraw its denial of the use of its port pursuant to paragraph 3.1 in respect of a vessel only if there is sufficient proof to show that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
- 3.5. Where a Port State Extended Commission Member or Cooperating Non-Member has withdrawn its denial pursuant to paragraph 3.4, it shall promptly notify those to whom a notification was issued pursuant to paragraph 3.3.

#### **4. Inspections and Follow-Up Actions**

##### *Levels and priorities for inspection*

- 4.1. Each Port State Extended Commission Member or Cooperating Non-Member shall inspect a number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of this Resolution.
- 4.2. Port State Extended Commission Members and Cooperating Non-Members shall seek to agree on the minimum levels for inspection of vessels that are required to achieve the objective of this Resolution.
- 4.3. In determining which vessels to inspect, a Port State Extended Commission Member or Cooperating Non-Member shall give priority to:
  - (a) Vessels that have been identified as having southern bluefin tuna on board;
  - (b) vessels that have been denied entry or use of a port in accordance with paragraphs 2.5, 2.8 or 3.1 of this Resolution;
  - (c) other vessels for which there are clear grounds for suspecting that they have engaged in or supported such fishing.

##### *Conduct of inspections*

- 4.4. Each Port State Extended Commission Member or Cooperating Non-Member shall ensure that its inspectors carry out the functions set forth in Annex B as a minimum standard.

- 4.5. Each Port State Extended Commission Member or Cooperating Non-Member shall, in carrying out inspections in its ports:
- (a) ensure that inspections are carried out by properly qualified inspectors authorized for that purpose;
  - (b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
  - (c) ensure that the inspector examines all relevant areas of the vessel, fish on board, the nets and any other gear, equipment, and any document or record held on board that are relevant to verify compliance with relevant conservation and management measures;
  - (d) require the master of the vessel to give the inspector all necessary assistance and information, and present relevant material and documents as may be required, or certified copies thereof;
  - (e) make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
  - (f) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, or that the inspector is accompanied, where possible and where needed, by an interpreter;
  - (g) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
  - (h) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

*Results of inspections*

- 4.6. Each Port State Extended Commission Member or Cooperating Non-Member shall, as a minimum standard, include the information set out in Annex C in the written report of the results of each inspection.

*Transmittal of inspection results*

- 4.7. Each Port State Extended Commission Member or Cooperating Non-Member shall transmit the results of each inspection to the flag State of the inspected vessel in a timely manner and, as appropriate, to relevant Port State Extended Commission Members and Cooperating Non-Members and States, including:
- (a) those States for which there is evidence through inspection that the vessel has engaged in IUU fishing and fishing related activities in support such fishing within waters under their national jurisdiction; and
  - (b) relevant regional fisheries management organizations.

- 4.8. Each Port State Extended Commission Member or Cooperating Non-Member shall transmit the results of each inspection to the Executive Secretary on a quarterly basis.

*Port State actions following inspection*

- 4.9. Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the inspecting Port State Extended Commission Member or Cooperating Non-Member shall:
- (a) promptly notify the flag State of the vessel, other Extended Commission Members and Cooperating Non-Members and, as appropriate and to the extent possible, relevant coastal State(s) and regional fisheries management organization(s); and
  - (b) deny the vessel the use of its port for landing, transshipping, packaging or processing of fish that have not been previously landed or for other port services, including, inter alia, refueling and resupplying, maintenance and dry docking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Resolution.

- 4.10. Notwithstanding paragraph 4.9, a Port State Extended Commission Member or Cooperating Non-Member shall not deny a vessel referred to in that paragraph the use of port services essential to the safety and health of the crew or the safety of the vessel.
- 4.11. Nothing in this Resolution prevents a Port State Extended Commission Member or Cooperating Non-Member from taking measures that are in conformity with international law in addition to those specified in paragraphs 4.9 and 4.10, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

## **5. Role of Flag States**

### *Role of flag States*

- 5.1. Each Port State Extended Commission Member or Cooperating Non-Member shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Resolution.
- 5.2. When a Port State Extended Commission Member or Cooperating Non-Member has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing for southern bluefin tuna or fishing related activities in support of such fishing and is seeking entry to or is in the port of another Extended Commission Member or Cooperating Non-Member, it shall, as appropriate, request that Extended Commission Member or Cooperating Non-Member to inspect the vessel or to take other measures consistent with this Resolution
- 5.3. Where, following port State inspection, a flag State Port State Extended Commission Member or Cooperating Non-Member receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and communicate the outcome of such actions to the Executive Secretary.
- 5.4. Each Extended Commission Member or Cooperating Non-Member shall, in its capacity as a flag State, report to other Extended Commission Members and Cooperating Non-Members on actions it has taken in respect of vessels entitled to fly its flags that, as a result of port State measures taken under this Resolution, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.
- 5.5. Each Port State Extended Commission Member or Cooperating Non-Member shall ensure that measures applied to vessels flying its flag are at least as effective to prevent,

deter, and eliminate IUU fishing as measures applied to vessels referred to in paragraph 1.2.

## **6. MONITORING, REVIEW AND ASSESSMENT**

### *Implementation and Review*

This Resolution shall apply from 1 January 2014

- 6.1. The Compliance Committee shall review this Resolution no later than at its 2015 meeting to identify any implementation issues, strengths, and weaknesses, and to recommend options to improve this resolution and its supporting procedures at the Extended Commission meeting.
- 6.2. The Executive Secretary shall compile the inspection information into an electronic database. The Executive Secretary shall ensure the confidentiality of the raw data in its database and release to any Extended Commission Member or Cooperating Non-Member on the raw data relating to the inspection it conducted. If an Extended Commission Member or Cooperating Non-Member requests information relating to another Extended Commission Member or Cooperating Non-Member's inspection records, the Executive Secretary may release that information only with the latter's agreement.
- 6.3. The Executive Secretary shall report to the Extended Commission on and circulate to all Extended Commission Members and Cooperating Non-Members the inspection information collected each year by 1 June for the period of 1 July - 31 December of the preceding year and by 1 December for the period of 1 January - 30 June of the current year. The information to be contained in the reports is specified in Annex D. The Executive Secretary shall provide an electronic copy of the report only to a designated authority of each Extended Commission Member or Cooperating Non-Member.
- 6.4. On request by the Scientific Committee, Compliance Committee, or other subsidiary body of the Commission, the Executive Secretary shall, with the approval of the Extended Commission, provide to that body inspection data collected more frequently or at a greater level of detail than specified in paragraph 6.3.
- 6.5. The Executive Secretary shall analyse the data provided in paragraph 6.2 and notify the relevant Extended Commission Member(s) or Cooperating Non-Member(s) of any identified discrepancies.

## ANNEX A

## Information to be provided in advance by vessels requesting port entry

<b>1. Intended port of call</b>													
<b>2. Port State</b>													
<b>3. Estimated date and time of arrival</b>													
<b>4. Purpose(s)</b>													
<b>5. Port and date of last port call</b>													
<b>6. Name of the vessel</b>													
<b>7. Flag State</b>													
<b>8. Type of vessel</b>													
<b>9. International Radio Call Sign</b>													
<b>10. Vessel contact information</b>													
<b>11. Vessel owner(s)</b>													
<b>12. Certificate of registry ID</b>													
<b>13. IMO ship ID, if available</b>													
<b>14. External ID, if available</b>													
<b>15. RFMO ID, if applicable</b>													
<b>16. VMS</b>		No		Yes: National		Yes: RFMO(s)		Type:					
<b>17. Vessel dimensions</b>			Length		Beam		Draft						
<b>18. Vessel master name and nationality</b>													
<b>19. Relevant fishing authorization(s)</b>													
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>								
<b>20. Relevant transshipment authorization(s)</b>													

<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>				
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>				
<b>21. Transshipment information concerning donor vessels</b>								
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID number</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>
<b>22. Total southern bluefin tuna onboard</b>						<b>20. SBT to be offloaded</b>		
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>			<i>Quantity</i>		

**ANNEX B****Port State inspection procedures**

The inspector(s) shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the vessel owner is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorization(s) for fishing and fishing related activities is/are true, complete and correct and consistent with the information provided in accordance with Annex A;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and VMS data from the flag State or relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorization(s);
- f) determine, to the extent possible, whether the southern bluefin tuna on board was harvested in accordance with the applicable authorization(s);
- g) examine the southern bluefin tuna to determine its quantity and composition, including by sampling. In doing so, the inspector(s) may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in illegal, unreported and unregulated fishing or fishing related activities;
- i) provide the report containing the result of the inspection to the master of the vessel including possible measures that could be taken, to be signed by the inspector and the master. The master's signature of the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the Master has serious difficulties in



understanding the content of the report. A copy of the report shall be provided to the Master.

- j) arrange, where necessary and possible, for a translation of relevant documentation.

## ANNEX C

## Report of the results of the inspection

1. Inspection report no		2. Port State	
3. Inspecting Authority			
4. Name of Principal Inspector		ID	
5. Port of inspection			
6. Commencement of inspection	YYYY	MM	DD HH
7. Completion of inspection	YYYY	MM	DD HH
8. Advanced notification received	Yes		No
9. Purpose(s)	LAN	TRX	PRO OTH (specify)
10. Port and State and date of last port call	YYYY	MM	DD
11. Vessel name			
12. Flag State			
13. Type of vessel			
14. International Radio Call Sign			
15. Certificate of registry ID			
16. IMO ship ID, if available			
17. External ID , if available			
18. Port of registry			
19. Vessel owner(s)			
20. Vessel beneficial owner(s), if known and different from vessel owner			
21. Vessel operator(s), if different from vessel owner			
22. Vessel master name and nationality			
23. Fishing master name and nationality			

<b>24. Vessel agent</b>						
<b>25. VMS</b>	<i>No</i>	<i>Yes: National</i>	<i>Yes: RFMOs</i>	<i>Type:</i>		
<b>26. CCSBT Authorised Vessel list</b>						
<i>CCSBT Registration Number</i>						
<b>27. Relevant fishing authorization(s)</b>						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
<b>28. Relevant Transshipment authorization(s)</b>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<b>29. Transshipment information concerning donor vessels</b>						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
<b>30. Evaluation of offloaded catch (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>31. Catch retained onboard (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>32. Examination of logbook(s) and other documentation</b>	<i>Yes</i>	<i>No</i>	<i>Comments</i>			
<b>33. Compliance with CCSBT catch documentation scheme</b>	<i>Yes</i>	<i>No</i>	<i>Comments</i>			
<b>34. Type of gear used</b>						

<b>35. Gear examined in accordance with paragraph e) of Annex B</b>	<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>36. Findings by inspector(s)</b>			
<b>37. Apparent infringement(s) noted including reference to relevant legal instrument(s)</b>			
<b>38. Comments by the master</b>			
<b>39. Action taken</b>			
<b>40. Master signature</b>			
<b>41. Inspector signature</b>			

**ANNEX D**

**Member Report to the Executive Secretary**

The following information will be provided by Members and Cooperating Non-Members in relation to their implementation of this resolution:

- Number of foreign flagged vessels carrying southern bluefin tuna onboard that requested access to a Member or Cooperating Non-Member's ports.
- Number of incidents where foreign flagged vessels were denied access to port based on this resolution.
- Number of foreign flagged vessels carrying southern bluefin tuna which were inspected.
- Number of breaches detected during the course of those inspections.

**AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

**PREAMBLE**

*The Parties to this Agreement,*

*Deeply concerned* about the continuation of illegal, unreported and unregulated fishing and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers, and the increasing need for food security on a global basis,

*Conscious* of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,

*Recognizing* that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

*Recognizing* that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,

*Aware of* the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,

*Acknowledging* the rapidly developing communications technology, databases, networks and global records that support port State measures,

*Recognizing* the need for assistance to developing countries to adopt and implement port State measures,

*Taking note of* the calls by the international community through the United Nations System, including the United Nations General Assembly and the Committee on Fisheries of the Food and Agriculture Organization of the United Nations, hereinafter referred to as 'FAO', for a binding international instrument on minimum standards for port State measures, based on the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing,

*Bearing in mind* that, in the exercise of their sovereignty over ports located in their territory, States may adopt more stringent measures, in accordance with international law,

*Recalling* the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the ‘Convention’,

*Recalling* the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries,

*Recognizing* the need to conclude an international agreement within the framework of FAO, under Article XIV of the FAO Constitution,

*Have agreed as follows:*

## **PART 1 GENERAL PROVISIONS**

### **Article 1 Use of terms**

For the purposes of this Agreement:

- (a) “conservation and management measures” means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;
- (b) “fish” means all species of living marine resources, whether processed or not;
- (c) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;

- (d) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- (e) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as ‘IUU fishing’;
- (f) “Party” means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force;
- (g) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- (h) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (i) “regional fisheries management organization” means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures; and
- (j) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

## **Article 2**

### **Objective**

The objective of this Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.



### **Article 3**

#### **Application**

1. Each Party shall, in its capacity as a port State, apply this Agreement in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:
  - (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing ; and
  - (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.
2. A Party may, in its capacity as a port State, decide not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels entitled to fly its flag.
3. This Agreement shall apply to fishing conducted in marine areas that is illegal, unreported or unregulated, as defined in Article 1(e) of this Agreement, and to fishing related activities in support of such fishing.
4. This Agreement shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.
5. As this Agreement is global in scope and applies to all ports, the Parties shall encourage all other entities to apply measures consistent with its provisions. Those that may not otherwise become Parties to this Agreement may express their commitment to act consistently with its provisions.

### **Article 4**

#### **Relationship with international law and other international instruments**

1. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of Parties under international law. In particular, nothing in this Agreement shall be construed to affect:

- (a) the sovereignty of Parties over their internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zones;
  - (b) the exercise by Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent port State measures than those provided for in this Agreement, including such measures adopted pursuant to a decision of a regional fisheries management organization.
2. In applying this Agreement, a Party does not thereby become bound by measures or decisions of, or recognize, any regional fisheries management organization of which it is not a member.
3. In no case is a Party obliged under this Agreement to give effect to measures or decisions of a regional fisheries management organization if those measures or decisions have not been adopted in conformity with international law.
4. This Agreement shall be interpreted and applied in conformity with international law taking into account applicable international rules and standards, including those established through the International Maritime Organization, as well as other international instruments.
5. Parties shall fulfil in good faith the obligations assumed pursuant to this Agreement and shall exercise the rights recognized herein in a manner that would not constitute an abuse of right.

## **Article 5**

### **Integration and coordination at the national level**

Each Party shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and

- (c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Agreement.

## **Article 6**

### **Cooperation and exchange of information**

1. In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations, including on the measures adopted by such regional fisheries management organizations in relation to the objective of this Agreement.
2. Each Party shall, to the greatest extent possible, take measures in support of conservation and management measures adopted by other States and other relevant international organizations.
3. Parties shall cooperate, at the subregional, regional and global levels, in the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organizations and arrangements.

## **PART 2**

### **ENTRY INTO PORT**

## **Article 7**

### **Designation of ports**

1. Each Party shall designate and publicize the ports to which vessels may request entry pursuant to this Agreement. Each Party shall provide a list of its designated ports to FAO, which shall give it due publicity.
2. Each Party shall, to the greatest extent possible, ensure that every port designated and publicized in accordance with paragraph 1 of this Article has sufficient capacity to conduct inspections pursuant to this Agreement.

## **Article 8**

### **Advance request for port entry**

1. Each Party shall require, as a minimum standard, the information requested in Annex A to be provided before granting entry to a vessel to its port.
2. Each Party shall require the information referred to in paragraph 1 of this Article to be provided sufficiently in advance to allow adequate time for the port State to examine such information.

## **Article 9**

### **Port entry, authorization or denial**

1. After receiving the relevant information required pursuant to Article 8, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each Party shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.
2. In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorization for entry to the competent authorities of the Party upon the vessel's arrival at port.
3. In the case of denial of entry, each Party shall communicate its decision taken pursuant to paragraph 1 of this Article to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States, regional fisheries management organizations and other international organizations.
4. Without prejudice to paragraph 1 of this Article, when a Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the Party shall deny that vessel entry into its ports, taking into due account paragraphs 2 and 3 of Article 4.
5. Notwithstanding paragraphs 3 and 4 of this Article, a Party may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

6. Where a vessel referred to in paragraph 4 or 5 of this Article is in port for any reason, a Party shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking. Paragraphs 2 and 3 of Article 11 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

#### **Article 10**

#### **Force majeure or distress**

Nothing in this Agreement affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

### **PART 3**

### **USE OF PORTS**

#### **Article 11**

#### **Use of ports**

1. Where a vessel has entered one of its ports, a Party shall deny, pursuant to its laws and regulations and consistent with international law, including this Agreement, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if:

- (a) the Party finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
- (b) the Party finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- (c) the Party receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- (d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization taking into due account paragraphs 2 and 3 of Article 4; or
  - (e) the Party has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 4 of Article 9, unless the vessel can establish:
    - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
    - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in paragraph 4 of Article 9.
2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services:
- (a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or
  - (b) where appropriate, for the scrapping of the vessel.
3. Where a Party has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other relevant international organizations of its decision.
4. A Party shall withdraw its denial of the use of its port pursuant to paragraph 1 of this Article in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
5. Where a Party has withdrawn its denial pursuant to paragraph 4 of this Article, it shall promptly notify those to whom a notification was issued pursuant to paragraph 3 of this Article.

**PART 4**  
**INSPECTIONS AND FOLLOW-UP ACTIONS**

**Article 12**

**Levels and priorities for inspection**

1. Each Party shall inspect the number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of this Agreement.
2. Parties shall seek to agree on the minimum levels for inspection of vessels through, as appropriate, regional fisheries management organizations, FAO or otherwise.
3. In determining which vessels to inspect, a Party shall give priority to:
  - (a) vessels that have been denied entry or use of a port in accordance with this Agreement;
  - (b) requests from other relevant Parties, States or regional fisheries management organizations that particular vessels be inspected, particularly where such requests are supported by evidence of IUU fishing or fishing related activities in support of such fishing by the vessel in question; and
  - (c) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing or fishing related activities in support of such fishing.

**Article 13**

**Conduct of inspections**

1. Each Party shall ensure that its inspectors carry out the functions set forth in Annex B as a minimum standard.
2. Each Party shall, in carrying out inspections in its ports:
  - (a) ensure that inspections are carried out by properly qualified inspectors authorized for that purpose, having regard in particular to Article 17;

- (b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
- (c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant conservation and management measures;
- (d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
- (e) in case of appropriate arrangements with the flag State of the vessel, invite that State to participate in the inspection;
- (f) make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- (g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- (h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- (i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

#### **Article 14**

##### **Results of inspections**

Each Party shall, as a minimum standard, include the information set out in Annex C in the written report of the results of each inspection.



**Article 15**  
**Transmittal of inspection results**

Each Party shall transmit the results of each inspection to the flag State of the inspected vessel and, as appropriate, to:

- (a) relevant Parties and States, including:
  - (i) those States for which there is evidence through inspection that the vessel has engaged in IUU fishing or fishing related activities in support of such fishing within waters under their national jurisdiction; and
  - (ii) the State of which the vessel's master is a national;
- (b) relevant regional fisheries management organizations; and
- (c) FAO and other relevant international organizations.

**Article 16**  
**Electronic exchange of information**

1. To facilitate implementation of this Agreement, each Party shall, where possible, establish a communication mechanism that allows for direct electronic exchange of information, with due regard to appropriate confidentiality requirements.
2. To the extent possible and with due regard to appropriate confidentiality requirements, Parties should cooperate to establish an information-sharing mechanism, preferably coordinated by FAO, in conjunction with other relevant multilateral and intergovernmental initiatives, and to facilitate the exchange of information with existing databases relevant to this Agreement.
3. Each Party shall designate an authority that shall act as a contact point for the exchange of information under this Agreement. Each Party shall notify the pertinent designation to FAO.
4. Each Party shall handle information to be transmitted through any mechanism established under paragraph 1 of this Article consistent with Annex D.

5. FAO shall request relevant regional fisheries management organizations to provide information concerning the measures or decisions they have adopted and implemented which relate to this Agreement for their integration, to the extent possible and taking due account of the appropriate confidentiality requirements, into the information-sharing mechanism referred to in paragraph 2 of this Article.

### **Article 17**

#### **Training of inspectors**

Each Party shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in Annex E. Parties shall seek to cooperate in this regard.

### **Article 18**

#### **Port State actions following inspection**

1. Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the inspecting Party shall:

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other international organizations, and the State of which the vessel's master is a national of its findings; and
- (b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Agreement, including Article 4.

2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services essential for the safety or health of the crew or the safety of the vessel.

3. Nothing in this Agreement prevents a Party from taking measures that are in conformity with international law in addition to those specified in paragraphs 1 and 2 of this Article, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

## **Article 19**

### **Information on recourse in the port State**

1. A Party shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that Party pursuant to Articles 9, 11, 13 or 18, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the Party.
2. The Party shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organizations have been informed of the prior decision pursuant to Articles 9, 11, 13 or 18, the Party shall inform them of any change in its decision.

## **PART 5**

### **ROLE OF FLAG STATES**

## **Article 20**

### **Role of flag States**

1. Each Party shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Agreement.
2. When a Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Agreement.
3. Each Party shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Agreement. Parties are encouraged to develop, including through regional fisheries management organizations and FAO, fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Agreement.
4. Where, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag

has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

5. Each Party shall, in its capacity as a flag State, report to other Parties, relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Agreement, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

6. Each Party shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in paragraph 1 of Article 3.

## **PART 6**

### **REQUIREMENTS OF DEVELOPING STATES**

#### **Article 21**

##### **Requirements of developing States**

1. Parties shall give full recognition to the special requirements of developing States Parties in relation to the implementation of port State measures consistent with this Agreement. To this end, Parties shall, either directly or through FAO, other specialized agencies of the United Nations or other appropriate international organizations and bodies, including regional fisheries management organizations, provide assistance to developing States Parties in order to, *inter alia*:

- (a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
- (b) facilitate their participation in any international organizations that promote the effective development and implementation of port State measures; and
- (c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.

2. Parties shall give due regard to the special requirements of developing port States Parties, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Agreement is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, Parties shall cooperate to facilitate the implementation by the relevant developing States Parties of specific obligations under this Agreement.

3. Parties shall, either directly or through FAO, assess the special requirements of developing States Parties concerning the implementation of this Agreement.

4. Parties shall cooperate to establish appropriate funding mechanisms to assist developing States in the implementation of this Agreement. These mechanisms shall, *inter alia*, be directed specifically towards:

- (a) developing national and international port State measures;
- (b) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
- (c) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
- (d) assisting developing States Parties with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Agreement.

5. Cooperation with and among developing States Parties for the purposes set out in this Article may include the provision of technical and financial assistance through bilateral, multilateral and regional channels, including South-South cooperation.

6. Parties shall establish an *ad hoc* working group to periodically report and make recommendations to the Parties on the establishment of funding mechanisms including a scheme for contributions, identification and mobilization of funds, the development of criteria and procedures to guide implementation, and progress in the implementation of the funding mechanisms. In addition to the considerations provided in this Article, the *ad hoc* working group shall take into account, *inter alia*:

- (a) the assessment of the needs of developing States Parties, in particular the least-developed among them and small island developing States;

- (b) the availability and timely disbursement of funds;
- (c) transparency of decision-making and management processes concerning fundraising and allocations; and
- (d) accountability of the recipient developing States Parties in the agreed use of funds.

Parties shall take into account the reports and any recommendations of the *ad hoc* working group and take appropriate action.

## **PART 7**

### **DISPUTE SETTLEMENT**

#### **Article 22**

#### **Peaceful settlement of disputes**

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.
2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

**PART 8**  
**NON-PARTIES**

**Article 23**  
**Non-Parties to this Agreement**

1. Parties shall encourage non-Parties to this Agreement to become Parties thereto and/or to adopt laws and regulations and implement measures consistent with its provisions.
2. Parties shall take fair, non-discriminatory and transparent measures consistent with this Agreement and other applicable international law to deter the activities of non-Parties which undermine the effective implementation of this Agreement.

**PART 9**  
**MONITORING, REVIEW AND ASSESSMENT**

**Article 24**  
**Monitoring, review and assessment**

1. Parties shall, within the framework of FAO and its relevant bodies, ensure the regular and systematic monitoring and review of the implementation of this Agreement as well as the assessment of progress made towards achieving its objective.
2. Four years after the entry into force of this Agreement, FAO shall convene a meeting of the Parties to review and assess the effectiveness of this Agreement in achieving its objective. The Parties shall decide on further such meetings as necessary.

**PART 10**  
**FINAL PROVISIONS**

**Article 25**  
**Signature**

This Agreement shall be open for signature at FAO from the Twenty-second day of November 2009 until the Twenty-first day of November 2010 by all States and regional economic integration organizations.

## **Article 26**

### **Ratification, acceptance or approval**

1. This Agreement shall be subject to ratification, acceptance or approval by the signatories.
2. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

## **Article 27**

### **Accession**

1. After the period in which this Agreement is open for signature, it shall be open for accession by any State or regional economic integration organization.
2. Instruments of accession shall be deposited with the Depositary.

## **Article 28**

### **Participation by Regional Economic Integration Organizations**

1. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply *mutatis mutandis* to participation by such regional economic integration organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) Article 2, first sentence; and

(b) Article 3, paragraph 1.

2. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by the regional economic integration organization in this Agreement:

(a) at the time of signature or accession, such organization shall make a declaration stating:

(i) that it has competence over all the matters governed by this Agreement;



- (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the organization has no responsibility; and
  - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an organization shall in no case confer any rights under this Agreement on member States of the organization;
- (c) in the event of a conflict between the obligations of such organization under this Agreement and its obligations under the Agreement establishing the organization or any acts relating to it, the obligations under this Agreement shall prevail.

## **Article 29**

### **Entry into force**

1. This Agreement shall enter into force thirty days after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance, approval or accession in accordance with Article 26 or 27.
2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

## **Article 30**

### **Reservations and exceptions**

No reservations or exceptions may be made to this Agreement.

### **Article 31**

#### **Declarations and statements**

Article 30 does not preclude a State or regional economic integration organization, when signing, ratifying, accepting, approving or acceding to this Agreement, from making a declaration or statement, however phrased or named, with a view to, *inter alia*, the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declaration or statement does not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or regional economic integration organization.

### **Article 32**

#### **Provisional application**

1. This Agreement shall be applied provisionally by States or regional economic integration organizations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.
2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the Depositary in writing of its intention to terminate provisional application.

### **Article 33**

#### **Amendments**

1. Any Party may propose amendments to this Agreement after the expiry of a period of two years from the date of entry into force of this Agreement.
2. Any proposed amendment to this Agreement shall be transmitted by written communication to the Depositary along with a request for the convening of a meeting of the Parties to consider it. The Depositary shall circulate to all Parties such communication as well as all replies to the request received from Parties. Unless within six months from the date of circulation of the communication one half of the Parties object to the request, the Depositary shall convene a meeting of the Parties to consider the proposed amendment.
3. Subject to Article 34, any amendment to this Agreement shall only be adopted by consensus of the Parties present at the meeting at which it is proposed for adoption.

4. Subject to Article 34, any amendment adopted by the meeting of the Parties shall come into force among the Parties having ratified, accepted or approved it on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by two-thirds of the Parties to this Agreement based on the number of Parties on the date of adoption of the amendment. Thereafter the amendment shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

5. For the purposes of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

#### **Article 34**

##### **Annexes**

1. The Annexes form an integral part of this Agreement and a reference to this Agreement shall constitute a reference to the Annexes.

2. An amendment to an Annex to this Agreement may be adopted by two-thirds of the Parties to this Agreement present at a meeting where the proposed amendment to the Annex is considered. Every effort shall however be made to reach agreement on any amendment to an Annex by way of consensus. An amendment to an Annex shall be incorporated in this Agreement and enter into force for those Parties that have expressed their acceptance from the date on which the Depositary receives notification of acceptance from one-third of the Parties to this Agreement, based on the number of Parties on the date of adoption of the amendment. The amendment shall thereafter enter into force for each remaining Party upon receipt by the Depositary of its acceptance.

#### **Article 35**

##### **Withdrawal**

Any Party may withdraw from this Agreement at any time after the expiry of one year from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Depositary. Withdrawal shall become effective one year after receipt of the notice of withdrawal by the Depositary.

**Article 36**  
**The Depositary**

The Director-General of FAO shall be the Depositary of this Agreement. The Depositary shall:

- (a) transmit certified copies of this Agreement to each signatory and Party;
- (b) register this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) promptly inform each signatory and Party to this Agreement of all:
  - (i) signatures and instruments of ratification, acceptance, approval and accession deposited under Articles 25, 26 and 27;
  - (ii) the date of entry into force of this Agreement in accordance with Article 29;
  - (iii) proposals for amendment to this Agreement and their adoption and entry into force in accordance with Article 33;
  - (iv) proposals for amendment to the Annexes and their adoption and entry into force in accordance with Article 34; and
  - (v) withdrawals from this Agreement in accordance with Article 35.

**Article 37**  
**Authentic texts**

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized, have signed this Agreement.

DONE in Rome on this Twenty-second day of November, 2009.

## ANNEX A

## Information to be provided in advance by vessels requesting port entry

<b>1. Intended port of call</b>									
<b>2. Port State</b>									
<b>3. Estimated date and time of arrival</b>									
<b>4. Purpose(s)</b>									
<b>5. Port and date of last port call</b>									
<b>6. Name of the vessel</b>									
<b>7. Flag State</b>									
<b>8. Type of vessel</b>									
<b>9. International Radio Call Sign</b>									
<b>10. Vessel contact information</b>									
<b>11. Vessel owner(s)</b>									
<b>12. Certificate of registry ID</b>									
<b>13. IMO ship ID, if available</b>									
<b>14. External ID, if available</b>									
<b>15. RFMO ID, if applicable</b>									
<b>16. VMS</b>			No		Yes: National		Yes: RFMO(s)		Type:
<b>17. Vessel dimensions</b>			Length		Beam		Draft		
<b>18. Vessel master name and nationality</b>									
<b>19. Relevant fishing authorization(s)</b>									
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>			<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>		
<b>20. Relevant transshipment authorization(s)</b>									
<i>Identifier</i>		<i>Issued by</i>			<i>Validity</i>				
<i>Identifier</i>		<i>Issued by</i>			<i>Validity</i>				
<b>21. Transshipment information concerning donor vessels</b>									
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID number</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>	

<b>22. Total catch onboard</b>				<b>23. Catch to be offloaded</b>
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>	<i>Quantity</i>

**ANNEX B****Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex A;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;

- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.



## ANNEX C

## Report of the results of the inspection

<b>1. Inspection report no</b>				<b>2. Port State</b>			
<b>3. Inspecting authority</b>							
<b>4. Name of principal inspector</b>				<b>ID</b>			
<b>5. Port of inspection</b>							
<b>6. Commencement of inspection</b>			<i>YYYY</i>		<i>MM</i>	<i>DD</i>	<i>HH</i>
<b>7. Completion of inspection</b>			<i>YYYY</i>		<i>MM</i>	<i>DD</i>	<i>HH</i>
<b>8. Advanced notification received</b>				<i>Yes</i>		<i>No</i>	
<b>9. Purpose(s)</b>		<i>LAN</i>	<i>TRX</i>	<i>PRO</i>	<i>OTH (specify)</i>		
<b>10. Port and State and date of last port call</b>					<i>YYYY</i>	<i>MM</i>	<i>DD</i>
<b>11. Vessel name</b>							
<b>12. Flag State</b>							
<b>13. Type of vessel</b>							
<b>14. International Radio Call Sign</b>							
<b>15. Certificate of registry ID</b>							
<b>16. IMO ship ID, if available</b>							
<b>17. External ID , if available</b>							
<b>18. Port of registry</b>							
<b>19. Vessel owner(s)</b>							
<b>20. Vessel beneficial owner(s), if known and different from vessel owner</b>							
<b>21. Vessel operator(s), if different from vessel owner</b>							
<b>22. Vessel master name and nationality</b>							
<b>23. Fishing master name and nationality</b>							
<b>24. Vessel agent</b>							
<b>25. VMS</b>		<i>No</i>	<i>Yes: National</i>		<i>Yes: RFMOs</i>	Type:	
<b>26. Status in RFMO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing</b>							
<i>Vessel identifier</i>	<i>RFMO</i>	<i>Flag State status</i>		<i>Vessel on authorized vessel list</i>		<i>Vessel on IUU vessel list</i>	

<b>27. Relevant fishing authorization(s)</b>						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
<b>28. Relevant transshipment authorization(s)</b>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<b>29. Transshipment information concerning donor vessels</b>						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
<b>30. Evaluation of offloaded catch (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>31. Catch retained onboard (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>32. Examination of logbook(s) and other documentation</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>33. Compliance with applicable catch documentation scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>34. Compliance with applicable trade information scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>35. Type of gear used</b>						
<b>36. Gear examined in accordance with paragraph e) of Annex B</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
<b>37. Findings by inspector(s)</b>						
<b>38. Apparent infringement(s) noted including reference to relevant legal instrument(s)</b>						

<b>39. Comments by the master</b>
<b>40. Action taken</b>
<b>41. Master's signature</b>
<b>42. Inspector's signature</b>

**ANNEX D**

**Information systems on port State measures**

In implementing this Agreement, each Party shall:

- a) seek to establish computerized communication in accordance with Article 16;
- b) establish, to the extent possible, websites to publicize the list of ports designated in accordance with Article 7 and the actions taken in accordance with the relevant provisions of this Agreement;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilize, to the extent possible, the international coding system below in Annexes A and C and translate any other coding system into the international system.

countries/territories:	ISO-3166 3-alpha Country Code
species:	ASFIS 3-alpha code (known as FAO 3-alpha code)
vessel types:	ISSCFV code (known as FAO alpha code)
gear types:	ISSCFG code (known as FAO alpha code)

**ANNEX E****Guidelines for the training of inspectors**

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

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and conservation and management measures of relevant RFMOs, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilizing conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.

CERTIFIED TRUE COPY of the English version of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing which was approved on 22 November 2009 at the Thirty-sixth Session of the FAO Conference. In accordance with the provisions of paragraph 7 of Article XIV of the FAO Constitution, this has been certified by the Director-General of the Organization and the Chairperson of the Conference.

Jacques Diouf  
Director-General  
Food and Agriculture Organization of  
the United Nations

Kathleen Merrigan  
Chairperson of the Conference

**RESOLUTION 10/11**  
**ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL,  
UNREPORTED AND UNREGULATED FISHING**

**The Indian Ocean Tuna Commission (IOTC):**

DEEPLY CONCERNED about the continuation of illegal, unreported and unregulated fishing in the IOTC Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States, and the increasing need for food security in the region,

CONSCIOUS of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,

RECOGNIZING that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

RECOGNIZING that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,

AWARE *of* the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,

RECOGNIZING the need for assistance to developing countries, in particular Small Island Developing States to adopt and implement port State measures,

TAKING NOTE OF the binding Agreement on port State measures to combat IUU fishing which was adopted and opened for signature within the framework of FAO in November 2009, and desiring to implement this Agreement in an efficient manner in the IOTC Area, ,

BEARING IN MIND that, in the exercise of their sovereignty over ports located in their territory, IOTC Members and Cooperating non-Contracting Parties (CPCs) may adopt more stringent measures, in accordance with international law,

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the Convention,

RECALLING the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Resolutions by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries,

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

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**PART 1**  
**GENERAL PROVISIONS**

*1. Use of terms*

For the purposes of this Resolution:

- (a) “fish” means all species of highly migratory fish stocks covered by the IOTC Agreement;
- (b) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
- (c) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- (d) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 1 of the Resolution 2009/03;
- (e) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying; and
- (f) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

*2. Objective*

The objective of this Resolution is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures to control the harvest of fish caught in the IOTC Area, and thereby to ensure the long-term conservation and sustainable use of these resources and marine ecosystems.

*3. Application*

3.1 Each CPC shall, in its capacity as a port State, apply this Resolution in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:

- (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing ; and
- (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.

3.2 This Resolution shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

*4. Integration and coordination at the national level*

Each CPC shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
  - (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
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(c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Conservation and Management Resolution.

## PART 2

### ENTRY INTO PORT

#### 5. *Designation of ports*

5.1 Each CPC shall designate and publicize the ports to which vessels may request entry pursuant to this Resolution. Each CPC shall provide a list of its designated ports to IOTC Secretariat before 31 December 2010, which shall give it due publicity on the IOTC website.

5.2 Each CPC shall, to the greatest extent possible, ensure that every port designated and publicized in accordance with point 5.1 has sufficient capacity to conduct inspections pursuant to this Resolution.

#### 6. *Advance request for port entry*

6.1 Each CPC shall require the information requested in Annex 1 to be provided before granting entry to a vessel to its port.

6.2 Each CPC shall require the information referred to in point 6.1 to be provided at least 24 hours before entering into port or immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours. For the latter, the port State must have enough time to examine the above mentioned information.

#### 7. *Port entry, authorization or denial*

7.1 After receiving the relevant information required pursuant to section 6, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each CPC shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.

7.2 In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorization for entry to the competent authorities of the CPC upon the vessel's arrival at port.

7.3 In the case of denial of entry, each CPC shall communicate its decision taken pursuant to point 7.1, to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States and IOTC secretariat. The IOTC Secretariat may, if deemed appropriate to combat IUU fishing at global level, communicate this decision to Secretariats of other RFMO's.

7.4 Without prejudice to point 7.1, when a CPC has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the CPC shall deny that vessel entry into its ports.

7.5 Notwithstanding points 7.3 and 7.4, a CPC may allow entry into its ports of a vessel referred to in those points exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

7.6 Where a vessel referred to in points 7.4 or 7.5 is in port for any reason, a CPC shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refueling and resupplying, maintenance and drydocking. Points 9.2 and 9.3 of section 9 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

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8. *Force majeure or distress*

Nothing in this Resolution affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

**PART 3**  
**USE OF PORTS**

9. *Use of ports*

9.1 Where a vessel has entered one of its ports, a CPC shall deny, pursuant to its laws and regulations and consistent with international law, including this Conservation and management resolution, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and drydocking, if:

- a) the CPC finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
- b) the CPC finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- c) the CPC receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization; or
- e) the CPC has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in point 7.4, unless the vessel can establish:
  - i. that it was acting in a manner consistent with relevant IOTC resolutions; or
  - ii. in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in point 4 of paragraph 7.

9.2 Notwithstanding point 9.1, a CPC shall not deny a vessel referred to in that point the use of port services:

- a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or
- b) where appropriate, for the scrapping of the vessel.

9.3 Where a CPC has denied the use of its port in accordance with this paragraph, it shall promptly notify the flag State and, as appropriate, relevant coastal States, IOTC or other regional fisheries management organizations and other relevant international organizations of its decision.

9.4 A CPC shall withdraw its denial of the use of its port pursuant to point 9.1 in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.

9.5 Where a CPC has withdrawn its denial pursuant to point 9.4, it shall promptly notify those to whom a notification was issued pursuant to point 9.3.

**PART 4**  
**INSPECTIONS AND FOLLOW-UP ACTIONS**

10. *Levels and priorities for inspection*

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10.1 Each CPC shall carry out inspections of at least 5% of landings or transshipments in its ports during each reporting year.

10.2 Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities by species of fish remaining on board.

10.3 National inspectors shall 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.

10.4 The port CPC may invite inspectors of other CPC to accompany their own inspectors and observe the inspection of landings or transshipment operations of fishery resources caught by fishing vessels flying the flag of another CPC.

### *11. Conduct of inspections*

11.1 Each CPC shall ensure that its inspectors carry out the functions set forth in Annex 2 as a minimum standard.

11.2 Each CPC shall, in carrying out inspections in its ports:

- a) ensure that inspections are carried out by properly qualified inspectors authorized for that purpose, having regard in particular to section 14;
- b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
- c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant conservation and management resolutions;
- d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
- e) in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;
- f) make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

### *12. Results of inspections*

Each CPC shall, as a minimum standard, include the information set out in Annex 3 in the written report of the results of each inspection.

### *13. Transmittal of inspection results*

13.1 The port State CPC shall, within three full working days of the completion of the inspection, transmit by electronic means a copy of the inspection report and, upon request, an original or a certified copy thereof, to the master of the inspected vessel, to the flag State, to the IOTC Secretariat and, as appropriate, to:

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- a) the flag State of any vessel that transhipped catch to the inspected vessel;
  - b) the relevant CPCs and States, including those States for which there is evidence through inspection that the vessel has engaged in IUU fishing, or fishing related activities in support of such fishing, within waters under their national jurisdiction; and
  - c) the State of which the vessel's master is a national.

13.2 The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organizations, and post the inspection report on the IOTC website.

#### *14. Training of inspectors*

Each CPC shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in Annex 5. CPC shall seek to cooperate in this regard.

#### *15. Port State actions following inspection*

15.1 Where, following an inspection, there are clear grounds for believing that a vessel has engaged IUU fishing or fishing related activities in support of such fishing, the inspecting CPC shall:

- a) promptly notify the flag State, the IOTC Secretariat and, as appropriate, relevant coastal States, and other regional fisheries management organizations, and the State of which the vessel's master is a national of its findings; and
- b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Conservation and Management Resolution.

15.2 Notwithstanding point 15.1, a CPC shall not deny a vessel referred to in that point the use of port services essential for the safety or health of the crew or the safety of the vessel.

15.3 Nothing in this Resolution prevents a CPC from taking measures that are in conformity with international law in addition to those specified in points 15.1 and 15.2, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

#### *16. Information on recourse in the port State*

16.1 A CPC shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that CPC pursuant to sections 7, 9, 11 or 15, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the CPC.

16.2 The CPC shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organizations have been informed of the prior decision pursuant to sections 7, 9, 11 or 15, the CPC shall inform them of any change in its decision.

### **PART 5**

#### **ROLE OF FLAG STATES**

#### *17. Role of CPCs flag States*

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17.1 Each CPCs shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Resolution.

17.2 When a CPC has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Resolution.

17.3 Each CPC shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Resolution. CPCs are encouraged to develop fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Resolution.

17.4 Where, following port State inspection, a flag State CPC receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

17.5 Each CPC shall, in its capacity as a flag State, report to other CPCs, relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Resolution, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

17.6 Each CPC shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in point 3.1.

## **PART 6**

### **REQUIREMENTS OF DEVELOPING STATES**

#### *18. Requirements of developing States*

18.1 CPCs shall give full recognition to the special requirements of CPCs developing States in relation to the implementation of this Resolution. To this end, IOTC should provide assistance to CPCs developing States in order to, *inter alia*:

- a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
- b) facilitate their participation in any international organizations that promote the effective development and implementation of port State measures; and
- c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.

18.2 18.2 IOTC shall give due regard to the special requirements of developing CPCs port States, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Resolution is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, CPCs shall cooperate to facilitate the implementation by the relevant CPCs developing States of specific obligations under this Resolution.

18.3 IOTC shall assess the special requirements of CPCs developing States concerning the implementation of this Resolution.

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18.4 IOTC CPCs shall cooperate to establish appropriate funding mechanisms to assist CPCs developing States in the implementation of this Resolution. These mechanisms shall, *inter alia*, be directed specifically towards:

- a) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
- b) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
- c) listing CPCs developing States with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Resolution.

## **PART 7**

### **DUTIES OF THE IOTC SECRETARIAT**

#### *19. Duties of the IOTC Secretariat*

19.1 The IOTC Secretariat shall without delay post on the IOTC website:

- a) the list of designated ports,
- b) the prior notification periods established by each CPC,
- c) the information about the designated competent authority in each port State CPC,
- d) the blank copy of the IOTC Port inspection report form.

19.2 The IOTC Secretariat shall without delay post on the secure part of the IOTC website copies of all Port inspection reports transmitted by port State CPCs.

19.3 All forms related to a specific landing or transshipment shall be posted together.

19.4 The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organizations.

20. This Resolution enters into force the 01 March 2011 and shall be applied to CPCs' ports within the IOTC area of competence. The CPCs situated outside the IOTC area of competence shall endeavour to apply this Resolution.

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## ANNEX 1

## Information to be provided in advance by vessels requesting port entry

<b>1. Intended port of call</b>															
<b>2. Port State</b>															
<b>3. Estimated date and time of arrival</b>															
<b>4. Purpose(s)</b>															
<b>5. Port and date of last port call</b>															
<b>6. Name of the vessel</b>															
<b>7. Flag State</b>															
<b>8. Type of vessel</b>															
<b>9. International Radio Call Sign</b>															
<b>10. Vessel contact information</b>															
<b>11. Vessel owner(s)</b>															
<b>12. Certificate of registry ID</b>															
<b>13. IMO ship ID, if available</b>															
<b>14. External ID, if available</b>															
<b>15. IOTC ID</b>															
<b>16. VMS</b>		No		Yes: National		Yes: RFMO(s)		Type:							
<b>17. Vessel dimensions</b>			Length		Beam		Draft								
<b>18. Vessel master name and nationality</b>															
<b>19. Relevant fishing authorization(s)</b>															
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>										
<b>20. Relevant transshipment authorization(s)</b>															
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>											
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>											
<b>21. Transshipment information concerning donor vessels</b>															
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID</i>	<i>Species</i>	<i>Product</i>	<i>Catch area</i>	<i>Quantity</i>							
<b>22. Total catch onboard</b>							<b>23. Catch to be offloaded</b>								
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>				<i>Quantity</i>								

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**ANNEX 2****Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
  - b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
  - c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex 1;
  - d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or IOTC Secretariat or other relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
  - e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
  - f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
  - g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
  - h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
  - i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
  - j) arrange, where necessary and possible, for translation of relevant documentation.
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**ANNEX 3**  
**IOTC Port inspection report form**

1. Inspection report no		2. Port State	
3. Inspecting authority			
4. Name of principal inspector		ID	
5. Port of inspection			
6. Commencement of inspection	YYYY	MM	DD HH
7. Completion of inspection	YYYY	MM	DD HH
8. Advanced notification received	Yes		No
9. Purpose(s)	LAN	TRX	PRO OTH (specify)
10. Port and State and date of		YYYY	MM DD
11. Vessel name			
12. Flag State			
13. Type of vessel			
14. International Radio Call Sign			
15. Certificate of registry ID			
16. IMO ship ID, if available			
17. External ID , if available			
18. Port of registry			
19. Vessel owner(s)			
20. Vessel beneficial owner(s), if			
21. Vessel operator(s), if different			
22. Vessel master name and nationality			
23. Fishing master name and nationality			
24. Vessel agent			
25. VMS	No	Yes: National	Yes: RFMOs Type:
26. Status in IOTC, including any IUU vessel listing			
Vessel	RFMO	Flag State	Vessel on authorized Vessel on IUU vessel list

<b>27. Relevant fishing authorization(s)</b>						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
<b>28. Relevant transshipment authorization(s)</b>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<b>29. Transshipment information concerning donor vessels</b>						
<i>Name</i>	<i>Flag State</i>	<i>ID no</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
<b>30. Evaluation of offloaded catch (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>31. Catch retained onboard (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>32. Examination of logbook(s) and other documentation</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>33. Compliance with applicable catch documentation scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>34. Compliance with applicable trade information scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>35. Type of gear used</b>						
<b>36. Gear examined in accordance with paragraph e) of Annex 2</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
<b>37. Findings by inspector(s)</b>						
<b>38. Apparent infringement(s) noted including reference to relevant legal instrument(s)</b>						
<b>39. Comments by the master</b>						
<b>40. Action taken</b>						
<b>41. Master's signature</b>						
<b>42. Inspector's signature</b>						

**ANNEX 4****Information systems on port State measures**

In implementing this Conservation and Management Resolution, each CPC shall:

- a) seek to establish computerized communication;
- b) establish, to the extent possible, websites to publicize the list of ports designated in accordance with point 5.1 and the actions taken in accordance with the relevant provisions of this Conservation and Management Resolution;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilize, to the extent possible, the international coding system below in Annexes 1 and 3 and translate any other coding system into the international system.

countries/territories:	ISO-3166 3-alpha Country Code
species:	ASFIS 3-alpha code (known as FAO 3-alpha code)
vessel types:	ISSCFV code (known as FAO alpha code)
gear types:	ISSCFG code (known as FAO alpha code)

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**ANNEX 5****Guidelines for the training of inspectors**

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

1. Ethics;
  2. Health, safety and security issues;
  3. Applicable national laws and regulations, areas of competence and conservation and management resolutions of the IOTC, and applicable international law;
  4. Collection, evaluation and preservation of evidence;
  5. General inspection procedures such as report writing and interview techniques;
  6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
  7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
  8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilizing conversion factors for the various species and products;
  9. Identification of fish species, and the measurement of length and other biological parameters;
  10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
  11. Equipment and operation of VMS and other electronic tracking systems; and
  12. Actions to be taken following an inspection.
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12-07

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**RECOMMENDATION BY ICCAT FOR AN  
ICCAT SCHEME FOR MINIMUM STANDARDS FOR INSPECTION IN PORT**

*RECOGNIZING* that many Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities (hereinafter referred to as CPCs) currently have port inspection schemes in place;

*RECALLING* *Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme* [Rec. 97-10];

*ALSO RECALLING* the *Recommendation by ICCAT further Amending the Recommendation by ICCAT to Establish a List of Vessels Presumed to have carried out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area* [Rec. 11-18] and the *Recommendation by ICCAT Concerning the Ban on Landings and Transshipments of Vessels from non-Contracting Parties Identified as Having Committed a Serious Infringement* [Rec. 98-11];

*FURTHER RECALLING* the 2009 Agreement on Port State Measures to Combat Illegal Unreported and Unregulated (IUU) Fishing; and

*DESIRING* to take a step that will strengthen ICCAT's monitoring, control, and surveillance regime to promote implementation of and compliance with conservation and management measures;

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION  
OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

**Scope**

1. Nothing in this Recommendation shall prejudice the rights, jurisdiction and duties of CPCs under international law. In particular, nothing in this Recommendation shall be construed to affect the exercise by CPCs of their authority over their ports in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent measures than those provided for in this Recommendation.

This Recommendation shall be interpreted and applied in conformity with international law, taking into account applicable international rules and standards, including those established through the International Maritime Organization, as well as other international instruments.

CPCs shall fulfill in good faith the obligations assumed pursuant to this Recommendation and shall exercise the rights recognized herein in a manner that would not constitute an abuse of right.

2. With a view to monitor compliance with ICCAT conservation and management measures, each CPC, in its capacity as a port CPC, shall apply this Recommendation for an effective scheme of port inspections in respect of foreign fishing vessels carrying ICCAT-managed species and/or fish products originating from such species that have not been previously landed or transhipped at port, hereinafter referred to as "foreign fishing vessels".
3. A CPC may, in its capacity as a port CPC, decide not to apply this Recommendation to foreign fishing vessels chartered by its nationals operating under its authority and returning to its port. Such chartered fishing vessels shall be subject to measures by the chartering CPC which are as effective as measures applied in relation to vessels entitled to fly its flag.
4. Without prejudice to specifically applicable provisions of other ICCAT Recommendations, and except as otherwise provided in this Recommendation, this Recommendation shall apply to foreign fishing vessels equal to or greater than 12 meters in length overall.
5. Each CPC shall subject foreign fishing vessels below 12 meters length overall, foreign fishing vessels operating under charter as referred to under paragraph 3, and fishing vessels entitled to fly its flag to measures that are at least as effective in combating IUU fishing as measures applied to vessels referred to in paragraph 4.

6. CPCs shall take necessary action to inform fishing vessels entitled to fly their flag of this and other relevant ICCAT conservation and management measures.

### **Points of Contact**

7. Each CPC wishing to grant access to its ports to foreign fishing vessels shall designate a point of contact for the purposes of receiving notifications pursuant to paragraph 11 of this Recommendation. Each CPC shall designate a point of contact for the purpose of receiving inspection reports pursuant to paragraph 22(b) of this Recommendation. It shall transmit the name and contact information for its points of contact to the ICCAT Secretariat no later than 30 days following the entry into force of this Recommendation. Any subsequent changes shall be notified to the ICCAT Secretariat at least 14 days before such changes take effect. The ICCAT Secretariat shall promptly notify CPCs of any such change.
8. The ICCAT Secretariat shall establish and maintain a register of points of contact based on the lists submitted by the CPCs. The register and any subsequent changes shall be published promptly on the ICCAT website.

### **Designated ports**

9. Each CPC wishing to grant access to its ports to foreign fishing vessels shall:
  - a) designate its ports to which foreign fishing vessels may request entry pursuant to this Recommendation;
  - b) ensure that it has sufficient capacity to conduct inspections in every designated port pursuant to this Recommendation;
  - c) provide to the ICCAT Secretariat within 30 days from the date of entry into force of this Recommendation a list of designated ports. Any subsequent changes to this list shall be notified to the ICCAT Secretariat at least 14 days before the change takes effect.
10. The ICCAT Secretariat shall establish and maintain a register of designated ports based on the lists submitted by the port CPCs. The register and any subsequent change shall be published promptly on the ICCAT website.

### **Prior notification**

11. Each port CPC wishing to grant access to its ports to foreign fishing vessels shall require foreign fishing vessels seeking to use its ports for the purpose of landing and/or transshipment to provide, at least 72 hours before the estimated time of arrival at the port, the following information:
  - a) Vessel identification (External identification; Name; Flag State; ICCAT Record No., if any; IMO No., if any; and IRCS);
  - b) Name of the designated port, as referred to in the ICCAT register, to which it seeks entry and the purpose of the port call (landing and/or transshipment);
  - c) Fishing authorization or, where appropriate, any other authorization held by the vessel to support fishing operations on ICCAT species and/or fish products originating from such species, or to transship related fishery products;
  - d) Estimated date and time of arrival in port;
  - e) The estimated quantities in kilograms of each ICCAT species and/or fish products originating from such species held on board, with associated catch areas. If no ICCAT species and/or fish products originating from such species are held on board, a 'nil' report shall be transmitted;
  - f) The estimated quantities for each ICCAT species and/or fish products originating from such species in kilograms to be landed or transshipped, with associated catch areas.

The port CPC may also request other information as it may require to determine whether the vessel has engaged in IUU fishing, or related activities.

12. The port CPC may prescribe a longer or shorter notification period than specified in paragraph 11, taking into account, *inter alia*, the type of fishery product, the distance between the fishing grounds and its ports. In such a case, the port CPC shall inform the ICCAT Secretariat, which shall publish the information promptly on the ICCAT website.
13. After receiving the relevant information pursuant to paragraph 11, as well as such other information as it may require to determine whether the foreign fishing vessel requesting entry into its port has engaged in IUU fishing, the port CPC shall decide whether to authorize or deny the entry of the vessel into its port. In case the port CPC decides to authorize the entry of the vessel into its port, the following provisions on port inspection shall apply.

### **Port inspections**

14. Inspections shall be carried out by a competent authority of the port CPC.
15. Each year CPCs shall inspect at least 5 % of landing and transshipment operations in their designated ports as are made by foreign fishing vessels.
16. In determining which foreign fishing vessel to inspect, the port CPC shall, in accordance with its domestic law, take into account, *inter alia*:
  - a) Whether a vessel has failed to provide complete information as required in paragraph 11;
  - b) requests from other CPCs or relevant regional fisheries management organizations (RFMOs) that a particular vessel be inspected, particularly where such requests are supported by evidence of IUU fishing by the vessel in question;
  - c) whether clear grounds exist for suspecting that a vessel has engaged in IUU fishing, including information derived from RFMOs;

### **Inspection procedure**

17. Each inspector shall carry a document of identity issued by the port CPC. In accordance with domestic laws, port CPC inspectors may examine all relevant areas, decks and rooms of the fishing vessel, catches processed or otherwise, nets or other fishing gears, equipment both technical and electronic, records of transmissions and any relevant documents, including fishing logbooks, Cargo Manifests and Mates Receipts and landing declarations in case of transshipment, which they deem necessary to ensure compliance with the ICCAT conservation and management measures. They may also question the Master, crew members, or any other person on the vessel being inspected. They may take copies of any documents considered relevant.
18. Inspections shall involve the monitoring of the landing or transshipment and include a cross-check between the quantities by species notified in the prior notification message in paragraph 11 above and held on board. Inspections shall be carried out in such a way that the fishing vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the catch is avoided, to the extent practicable.
19. On completion of the inspection, the port CPC inspector shall provide the Master of the foreign fishing vessel with the inspection report containing the findings of the inspection, including possible subsequent measures that could be taken by the port CPC. The Master shall be given the opportunity to add any comments or objection to the report and to contact the flag State. The inspector and the Master shall sign the report and a copy of the report shall be provided to the Master. The Master's signature shall serve only as acknowledgement of the receipt of a copy of the report.
20. The port CPC shall transmit a copy of the inspection report to the ICCAT Secretariat no later than 14 days following the date of completion of the inspection. If the inspection report cannot be transmitted within 14 days, the port CPC should notify the ICCAT Secretariat within the 14 day time period the reasons for the delay and when the report will be submitted.

21. Flag CPCs shall take necessary action to ensure that Masters facilitate safe access to the fishing vessel, cooperate with the competent authorities of the port CPC, facilitate the inspection and communication and not obstruct, intimidate or interfere, or cause other persons to obstruct, intimidate or interfere with port CPC inspectors in the execution of their duties.

#### **Procedure in the event of apparent infringements**

22. If the information collected during the inspection provides evidence that a foreign fishing vessel has committed an infringement of the ICCAT conservation and management measures, the inspector shall:
  - a) record the infringement in the inspection report;
  - b) transmit the inspection report to the port CPC competent authority, which shall promptly forward a copy to the ICCAT Secretariat and to the flag State point of contact and, as appropriate, the relevant coastal State;
  - c) to the extent practicable, ensure safekeeping of the evidence pertaining to such infringement. If the infringement is to be referred to the flag State for further action, the port CPC shall promptly provide the evidence collected to the flag State.
23. If the infringement falls within the legal jurisdiction of the port CPC, the port CPC may take action in accordance with its domestic laws. The port CPC shall promptly notify the action taken to the flag State, the relevant coastal State, as applicable, and the ICCAT Secretariat, which shall promptly publish this information in the secure part of the ICCAT website.
24. Infringements that do not fall within the jurisdiction of the port CPC, and infringements referred to in paragraph 23 for which the port CPC has not taken action, shall be referred to the flag State and, as appropriate, the relevant coastal State. Upon receiving the copy of the inspection report and evidence, the flag CPC shall promptly investigate the infringement and notify the ICCAT Secretariat of the status of the investigation and of any enforcement action that may have been taken within 6 months of such receipt. If the flag CPC cannot notify the ICCAT Secretariat this status report within 6 months of such receipt, the flag CPC should notify the ICCAT Secretariat within the 6 month time period the reasons for the delay and when the status report will be submitted. The ICCAT Secretariat shall promptly publish this information in the secure part of the ICCAT website. CPCs shall include in their Annual Report [Ref. 12-13] information regarding the status of such investigations.
25. Should the inspection provide evidence that the inspected vessel has engaged in IUU activities as referred to in Rec. 11-18, the port CPC shall promptly report the case to the flag State, and the relevant coastal CPC, as applicable, and notify as soon as possible the ICCAT Secretariat, along with its supporting evidence, for the purpose of inclusion of the vessel in the draft IUU list.

#### **Requirements of developing CPCs**

26. CPCs shall give full recognition to the special requirements of developing CPCs in relation to a port inspection scheme consistent with this Recommendation. CPCs shall, either directly or through the ICCAT Secretariat, provide assistance to developing CPCs in order to, *inter alia*:
  - a) Develop their capacity including by providing technical assistance and establishing an appropriate funding mechanism to support and strengthen the development and implementation of an effective system of port inspection at national, regional or international levels and to ensure that a disproportionate burden resulting from the implementation of this recommendation is not unnecessarily transferred to them;
  - b) Facilitate their participation in meetings and/or training programmes of relevant regional and international organizations that promote the effective development and implementation of a system of port inspection, including monitoring, control and surveillance, enforcement and legal proceedings for infractions and dispute settlements pursuant to this Recommendation; and
  - c) Either directly or through the ICCAT Secretariat, assess the special requirements of developing CPCs concerning the implementation of this Recommendation.



**General provisions**

27. CPCs are encouraged to enter into bilateral agreements/arrangements that allow for an inspector exchange program designed to promote cooperation, share information, and educate each party's inspectors on inspection strategies and methodologies which promote compliance with ICCAT conservation and management measures. Information regarding such programs, including a copy of such agreements or arrangements, should be included in Annual Reports of CPCs [Ref. 12-13].
28. Without prejudice to domestic laws of the port CPC, the flag CPC may, in the case of appropriate bilateral agreements or arrangements with the port CPC or at the invitation of that CPC, send its own officials to accompany the inspectors of the port CPC and observe or take part in the inspection of its vessel.
29. Flag CPCs shall consider and act on reports of infringements from inspectors of a port CPC on a similar basis as the reports from their own inspectors, in accordance with their domestic laws. CPCs shall cooperate, in accordance with their domestic laws, in order to facilitate judicial or other proceedings arising from inspection reports as set out in this Recommendation.
30. The ICCAT Secretariat shall develop model formats for prior notification reports and inspection reports required under this Recommendation, taking into account forms adopted in other relevant instruments, such as the FAO Port State Measures Agreement and other RFMOs, for consideration at the 2013 Integrated Monitoring Measures meeting and adoption as annexes to this Recommendation at the 2013 Annual Meeting of the Commission.
31. The Commission shall review this Recommendation no later than its 2014 Annual Meeting and consider revisions to improve its effectiveness.
32. The *Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme* [Rec. 97-10] is repealed and replaced by this Recommendation.