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**FIRST MEETING  
OF THE  
TECHNICAL AND COMPLIANCE COMMITTEE  
OF THE COMMISSION FOR THE CONSERVATION AND MANAGEMENT  
OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND  
CENTRAL PACIFIC OCEAN, POHNPEI, FEDERATED STATES OF  
MICRONESIA,  
5-9 DECEMBER 2005**

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**WCPFC/TCC1/16  
5<sup>th</sup> November 2005**

## **Port State Measures and Port Inspection**

Prepared by the Secretariat<sup>1</sup>

### **Introduction**

1. At PrepCon V, WG.III identified Port State control as a priority MCS need of the Commission (WCPFC/PrepCon/33, paragraph 5). This background paper was prepared by the Secretariat in order to assist Members in considering Agenda Item 4.4 and 4.5 for the first meeting of the Technical and Compliance Committee (TCC) of the Commission (WCPFC/TCC/2005/02). The paper briefly describes the legal basis for port State control under the WCPF Convention and identifies issues that may require consideration in developing the Commission's Port State Scheme. To inform the discussion, the paper provides information on the FAO Port State Model Scheme and developments in other Regional Fisheries Management Organizations (RFMOs).

### **Legal basis for port State measures**

3. Fishing vessels seek port access for many reasons, including refuelling, reprovisioning, landing catch, transshipment, effecting repairs and in emergencies.<sup>2</sup> In recognition of the significance of port access for fishing vessels, port State control has now become a fundamental MCS obligation of States under international fisheries instruments

4. Article 27 of the WCPF Convention specifies the port State obligations of Members of the WCPFC:

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<sup>1</sup> Paper prepared by Prof. Martin Tsamenyi, Centre for Maritime Policy, University of Wollongong, NSW, Australia.

<sup>2</sup> FAO, "Action Taken by FAO Members and FAO to Implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing" (IPOA-IUU) TCIUU-CAP/2002/2 p.19.

*Article 27*  
*Measures taken by a port State*

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the fishing vessels of any State.
2. Whenever a fishing vessel of a member of the Commission voluntarily enters a port or offshore terminal of another member, the port State may, *inter alia*, inspect documents, fishing gear and catch on board such fishing vessel.
3. Members of the Commission may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.
4. Nothing in this article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.

4. Under international law, States have full sovereignty (with minor exceptions (such non-discriminatory treatment of vessels of different nationalities and admission of vessels in distress) over their ports. It follows that the primary responsibility for the implementation of Article 27 of the WCPF Convention lies with each port State member of the Commission.

5. Article 27 of the WCPFC Convention outlines the minimum measures that may be taken by Members of the Commission to discharge their port State obligations. These include: (a) inspection of documents, fishing gear and catch on board the vessel, and (b) prohibition of landings and transshipment. Pursuant to their sovereignty, Members of the Commission have the discretion to take additional measures to implement Article 27 if they so choose. The High Seas Task Force Report on “Promoting Responsible Ports”<sup>3</sup> identifies additional measures that may be taken by port States to implement their port State obligations. These include: (a) prohibiting the landing, transshipment or processing of catch; (b) prohibiting the use of other port services, such as refueling, other forms of re-supplying (water, food, equipment, bait), making repairs, etc.; and (c) punitive or corrective action in case of violations of the domestic legislation of the port State.

6. Consistent with general international law, the port State powers of Members of the Commission under Article 27 of the WCPFC Convention are subject to three limitations.

7 The first limitation is that “a port State shall not discriminate in form or in fact against the fishing vessels of any State.” (Article 27(1)). One issue raised by the “non-discriminatory” requirement is possible conflict between WCPFC Convention obligations and international trade rules. The High Seas Task Force Report noted above, provides the following assessment:

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<sup>3</sup> High Seas Task Force, “Promoting Responsible, Ports,” Meeting of the High Seas Task Force Paris, 9 March 2005, p.3. See [ww.high-seas.org/docs/HSTF\\_06\\_February\\_2005\\_Final.pdf](http://ww.high-seas.org/docs/HSTF_06_February_2005_Final.pdf) -

*In order to ensure consistency with international trade law it is critical that all port State enforcement action is applied in a transparent manner that avoids unjustifiable discrimination between foreign vessels as well as between national and foreign vessels.<sup>4</sup> This is in fact in full conformity with the general LOSC requirement of non-discrimination (LOSC, articles 119 (3) and 227) which is also reflected in paragraph 52 of the IPOA-IUU. The latter stipulates that port State measures “should be implemented in a fair, transparent and non-discriminatory manner.” It is important to emphasize that what is to be avoided is unjustifiable discrimination. For example, denial of access to ports or services to a vessel flying the flag of a State that is not a member or cooperating non-member of a relevant RFMO and is unable to establish that the catch was taken in a manner consistent with the RFMO’s conservation and management measures is a form of discrimination, but one that can be justified. This currently occurs in various port States that cooperate with CCAMLR in relation to its catch documentation scheme for toothfish.<sup>4</sup>*

8 The second limitation imposed by the WCPFC Convention on the exercise of port State powers by members of the WCPFC is that fishing vessels subject to port State enforcement measures must have voluntarily entered a port or offshore terminal of the member of the Commission (i.e. on their own steam and not under distress) (Article 27(2)). This limitation is consistent with international law and practice.<sup>5</sup>

9. The third limitation on the exercise of port State powers by members of the Commission is contained in Article 27(3). The regulations adopted by Members of the Commission to give effect to their port State obligations must relate to the implementation of the Commission’s management and conservation measures. Specifically, the catch must have been taken “in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission”. This provision is intended to avoid the imposition of unilateral measures by some Members of the Commission. In practice, therefore, the effectiveness of the port State measures by Members of the Commission is closely related to the adoption of management and conservation measure by the Commission and the timely implementation of such measure by Members of the Commission.

### **Need for harmonization**

10 Because the implementation of the port State obligations under the WCPF Convention is essentially within the sovereign discretion of each Member of the Commission, the WCPF Convention does not assign any direct roles to the Commission in this respect of port State measures. This is confirmed by Article 27(4): “Nothing in this Article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.”

11 The discretion Members of the Commission have over their ports could give rise to differential standards among Members of the Commission in terms of

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<sup>4</sup> Ibid. p.3

<sup>5</sup> See R.R Churchill and A.V Lowe, *The Law of the Sea* (3<sup>rd</sup> Edition), 1999, Juris Publishing, Manchester University Press, p.p.67-68. The practical application of this rule in the fisheries context is illustrated by the case of *Anklagemyndigheden v. Peter Michael Poulsen and Diva Navigation*, (European Court Reports, 1992, pp 1-06019) where the European Court of Justice held, among other things, that the prosecution of the defendants by Denmark for breach of Community fisheries conservation measures was unlawful because the vessel entered the Danish port in distress.

inspection procedures, information to be provided by vessels intending to enter into port and penalties imposed. This may weaken the effectiveness of the Commission's management and conservation measures and result in uncertainty for the fishing vessels operating in the Convention Area.

12. To minimise this problem, the international practice has been to develop a harmonised approach to port State measures. In this context, the High Seas Task Force Report on "Promoting Responsible Ports" noted:

*Active use of port State powers can be an effective weapon against IUU operations. Once a vessel is in one of its ports, the port State needs to be able to act decisively and effectively. This means that necessary domestic legislation must be in place as well as cooperative mechanisms to coordinate action with other port States, flag States and market States. A regionally or globally harmonized and coordinated approach to port State control can help to overcome some practical limitations (e.g. IUU operators rapidly shifting operations from one port to another or transshipping at sea) and can act as a disincentive to IUU operators by increasing the cost of their operations (e.g. by forcing them to seek out more remote and hence more costly ports)<sup>6</sup>.*

13. A harmonised system of port State measures by the WCPFC will also support the implementation of the IPOA-IUU. Paragraph 62 of the IOPA-IUU provides that "States should cooperate, as appropriate, bilaterally, multilaterally and within the relevant regional fisheries management organizations, to develop compatible measures for port State control of fishing vessels. Such measures should deal with the information to be collected by port States, procedures for information collection, and measures for dealing with suspected infringements by the vessel of measures adopted under these national, regional and international systems."

14 Harmonization of port State measures could be based on a phased approach, ranging from adoption of minimum procedures and standards and a net-work for sharing information on individual port State measures by Members of the Commission. A harmonised scheme of port State inspection will also ensure compatibility, transparency and the effective implementation of the Commission's management and conservation measures.

### **The FAO Port State Scheme**

15. In an effort to clarify substantive issues relating to the role of the port State in combating IUU fishing and to address principles and guidelines for the establishment of harmonised regional memoranda on port States measures to prevent, deter and eliminate IUU fishing, the UN Food and Agriculture Organization (FAO) convened the Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and at Unregulated Fishing (IUU) from 31 August to 2 September 2004 (*FAO Fisheries Report*. No. 759. Rome, FAO. 2004). The Technical Consultation approved a Model Scheme on Port State Measures to Combat IUU Fishing, strongly supported the proposed Program of Assistance to facilitate human development and institutional strengthening in developing countries to promote the full and effective implementation of port States measures to combat IUU fishing, and supported the

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<sup>6</sup> High Seas Task Force, "Promoting Responsible, Ports," p.1

establishment of a database concerning relevant port State measures. The report and recommendations of the port State Technical Consultation were endorsed by the Twenty-sixth Session of the FAO Committee on Fisheries (COFI 26) in March 2005. The FAO Scheme is attached to this Paper as **Appendix A** to guide the Committee's discussion.

16 The FAO Port State Model Scheme outlines minimum port State measures to be applied either through adoption of regional memoranda of understanding, through RFMOs or by individual port States. The scheme is a harmonised approach which is not intended to derogate from the sovereignty of States over their ports, but to promote a fair, transparent and non-discriminatory system for implementing the port State obligations of States.

17 The substantive parts of the FAO Model Scheme cover the following issues:

- inspection of fishing vessels;
- port State inspection procedures;
- actions to be taken by port States when violations are detected;
- information to be collected by the port State and exchanged;
- information to be provided in advance by fishing vessels prior to entry into port; (e) training to be provided by port State Inspectors and
- information systems on Port State Inspections.

18. The FAO Model Scheme provides a useful basis for the development of the Commission's Port State Scheme.

### **Port State Schemes by other RFMOs**

19. Most RFMOs that deal with straddling and/or highly migratory fish stocks have some form of port State control scheme. The experiences of these RFMOs may provide some guidance for the development of the WCPFC Port State Measures. Of Particular relevance to the WCPFC are the Port State Schemes of ICCAT, CCAMLR, NAFO and IOTC. These Schemes are described briefly below.

20. The ICCAT Port Inspection Scheme (**see Appendix B**) is contained in ICCAT, Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme, 97-10 GEN, 13 June 1998. The ICAAT Scheme establishes general principles and agreed guidelines and sets minimum standards for port State Measures to be met by all of its members. ICAAT members are also encouraged to exceed the minimum standards.

21. CCAMLR Port Sate Scheme (**see Appendix C**) is contained in CCAMLR Measure 10-03(2002) and was intended to monitor landings of toothfish. The Scheme required members of CCAMLR to inspect all fishing vessels carrying toothfish which enter their ports to ascertain compliance with CCAMLR's conservation measures. The Scheme also provides for uniform procedures to be followed by inspectors, information required to be provided by foreign vessels seeking port access and the reporting procedures and requirements on members following inspection of foreign fishing vessels.

22. The NAFO Port State Scheme (**see Appendix D**) is part of the "NAFO Conservation and Enforcement Measures." The NAFO Scheme requires the presence

of Port State inspectors during the offloading of catch, the verification of catch on board and notification of inspection results to the Executive Secretary within a specified period.

23 The IOTC Port State Scheme (see **Appendix E**) is contained in IOTC “Resolution 05/03 relating to the establishment of an IOTC programme of inspection in port”. The Resolution, which was intended to achieve an integrated approach to port State measures, called on each member of IOTC to establish port State inspection schemes. Port States are required to provide information to flag States and the Commission relating to violations detected.

## **Conclusion**

24 To progress the discussion on port State measures, the TCC is invited to consider whether harmonization of measures across the Commission membership is desirable and if so, the forms and content of such a harmonised scheme. The Commission’s Port State Scheme would require time to be developed and finalised. In this respect, the FAO Scheme provides a useful starting point to draw from.

25. To assist the process, the TCC may wish to establish of a sub-Committee to develop a draft scheme. The development of such a scheme would be well informed by a preliminary assessment of the port State measures currently employed by WCPFC members. Consideration could also be given to a longer-term strategy to link the port State scheme to the other MCS measures of the Commission such as the Record of Fishing Vessels and the VMS. For example, the inspection of logbooks and catch pursuant to port State enforcement could be supported by verification using VMS information and Observer Reports. This would ensure that the various MCS measures by the Commission do not stand alone, but are parts of an integrated MCS system. Additionally, consideration could be given to integrating the Commission’s Port State Scheme with the Schemes developed by other relevant RFMOs.

26. Another important issue for consideration is capacity building. Given the limited capacity in some of the developing islands State Members of the Commission, consideration should be given to strategies and mechanisms to provide assistance to developing State Members of the Commission to implement their Port State obligations.

## Appendix A

### **FAO MODEL SCHEME ON PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

In developing this Model Scheme, Members,

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

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

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

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

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

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

should be guided by the following:

#### **General**

1. In this Model Scheme,

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

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

2. A Port State should:

2.1 give effect to the provisions of the present Model Scheme and the Annexes thereto, which constitute an integral part of the Model Scheme; 2.2 maintain an effective system of port State control for foreign fishing vessels calling at its port, with a view to promoting the effectiveness of relevant<sup>7</sup> conservation and management measures;

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<sup>7</sup> The creation of a list of relevant conservation and management measures for a particular Model Scheme might be required.

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

2.4 require, prior to allowing port access to a foreign fishing vessel, that the vessel provides a reasonable advance notice prior to entering its port or its EEZ for the purpose of port access, which includes, with due regard to confidentiality requirements, vessel identification, the authorization(s) to fish, information on its fishing trip and vessel monitoring systems, quantities of fish on board and other documentation, as described in Annex A;

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

2.6 where there are clear grounds for believing that a fishing vessel has engaged in or supported IUU fishing in waters beyond the limits of its fisheries jurisdiction, refuse to allow the vessel to use its port for landing, transshipping, refuelling or re-supplying;

2.7 not allow a vessel to use its ports for landing or transshipment where it has been established that the vessel is identified by a regional fisheries management organization as engaging in or supporting fishing activities in contravention with its conservation and management measures;

2.8 ensure that port State inspections take place in accordance with Annex B<sup>8</sup> and obtain, in the course of such inspections, at least the information listed in Annex C; and

2.9 consult, cooperate and exchange information with [other States] in order to facilitate the implementation of this Model Scheme.

## **Inspections**

3. In implementing this Model Scheme, each port State should:

3.1 carry out inspections of foreign fishing vessels in its ports for the purpose of monitoring compliance with relevant<sup>9</sup> conservation and management measures;

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<sup>8</sup> An annual total number of inspections corresponding to at least XX % of the number of individual vessels to which the Model Scheme applies should be agreed upon. In organizing the inspections, priority will be given to vessels flying flags of non-cooperating non-contracting Parties or vessels believed to have engaged in IUU fishing, while recognizing that inspection in port should be carried out in a non-discriminatory basis.

<sup>9</sup> See footnote 1.

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

3.3 ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate identity document;

3.4 ensure that an inspector can examine any areas of the fishing vessel that is required, the catch (whether processed or not), the nets and any other gear, equipment, and any document which the inspector deems necessary to verify compliance with relevant<sup>10</sup> conservation and management measures;

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

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

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

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

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

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

## **Actions**

4. When, following an inspection, an inspector finds that there is reasonable evidence for believing that a foreign fishing vessel has engaged in, or supported, IUU fishing activities which include, but are not limited to, the following:<sup>11</sup>

a) fishing without a valid licence, authorization or permit issued by the flag State or the relevant coastal State;

b) failing to maintain accurate records of catch and catch-related data;

c) fishing in a closed area, fishing during a closed season or without, or after attainment of a quota;

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<sup>10</sup> See footnote 1.

<sup>11</sup> This list may be changed on region by region basis including by RFMOs.

- d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- e) using prohibited fishing gear;
- f) falsifying or concealing the markings, identity or registration of the vessel;
- g) concealing, tampering with or disposing of evidence relating to an investigation;
- h) conducting multiple violations which together constitute a serious disregard of relevant conservation and management measures;
- i) failure to comply with Vessel Monitoring Systems (VMS) requirements; and
- j) taking or landing undersized fish in contravention with relevant conservation and management measures. then the port State should promptly notify the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organizations.<sup>12</sup>

5. The port State should take due note of any reply or any actions proposed or taken by the flag State of the inspected vessel.<sup>13</sup> Unless the port State is satisfied that the flag State has taken or will take adequate action, the vessel should not be allowed to land or transship fish in its ports. The port State may take other actions with the consent of, or upon the request of, the flag State.

### **Information**

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

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

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

### **Others**

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

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

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<sup>12</sup> In each region there may be reference to applicable international instruments.

<sup>13</sup> It is recommended that there should be established a list of contact points in the relevant administration of each Member to the Model Scheme.

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

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

## **Annex A**

### **Information to be provided in advance by foreign fishing vessels**

#### **1. Vessel identification**

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

#### **2. Purpose of access to port**

#### **3. Fishing authorization (licenses/permits)<sup>14</sup>**

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

#### **4. Trip information**

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

#### **5. Species information**

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

## **Annex B**

### **Port State Inspection Procedures of Foreign Fishing Vessels**

#### **1. Vessel identification**

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<sup>14</sup>For support ships, carrier vessels and any other similar vessels, information required may vary.

The port inspector(s) should:

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

## **2. Authorization(s)**

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

## **3. Other documentation**

The port inspector(s) should review all relevant documentation<sup>15</sup> which may include various logbooks, in particular the fishing logbook, as well as stowage plans and drawings or descriptions of fish holds if available. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans. Where available, this documentation should also include catch documents issued by any regional fisheries management organization, trade documents or, if applicable, CITES documents.

## **4. Fishing gear**

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

## **5. Fish and fishery products**

- a) The port inspector(s) should, to the greatest extent possible, examine whether the fish and fishery products on board are harvested in accordance with the conditions set out in the authorization. In doing so, the port inspector(s) should examine the fishing

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<sup>15</sup> It is understood that documentation includes documents in electronic format.

logbook, reports submitted, including those resulting from a vessel monitoring system (VMS), as appropriate.

b) In order to determine the quantities and species which are fresh on ice, frozen but not packed, processed, packed or in bulk, the port inspector(s) may examine the fish in the hold or during the landing. In doing so, the port inspector(s) may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.

c) If the vessel is unloading, the port inspector(s) may, to the greatest extent possible, verify the species and quantities landed. Such verification may include presentation (product form), live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. The port inspector(s) may also examine any possible quantities retained onboard.

d) If the port inspector(s) has reasonable grounds to believe that a vessel has engaged in, or supported IUU fishing, the port inspector(s) should as soon as possible contact the flag State authorities to verify whether the fish and fishery products have been harvested or collected in the areas as recorded in the relevant documents. To this effect, the port inspector(s) may also review the quantity and composition of all catch onboard, including by sampling.

## **6. Report**

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

## **Annex C**

### **Results of Port State Inspections**

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

#### **1. Inspection references**

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

#### **2. Vessel identification**

- name of the vessel;
- type of vessel;
- external identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate;
- international Radio Call Sign;
- MMSI-number (Maritime Mobile Service Identity number), if available;
- flag State (State where the vessel is registered);
- previous name(s) and flag(s), if any;

- whether the flag State is party to a particular regional fisheries management organization;
- home port (port of registration of the vessel) and previous home ports;
- vessel owner (name and address of the vessel owner);
- vessel operator responsible for using the vessel if different from the vessel owner;
- name(s) and address(es) of previous owner(s), if any; and
- name and certificate(s) of master.

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

- the vessel's authorization(s) to fish;
- State(s) issuing the authorization(s);
- areas, scope and duration of the authorization(s);
- species and fishing gear authorized; and
- transshipment records and documents<sup>16</sup> (where applicable).

### **4. Trip information**

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

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

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

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

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

### **7. Results of gear inspection**

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

### **8. Conclusions**

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

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<sup>16</sup> The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Annex B.

## **Annex D**

### **Training of Port State Inspectors<sup>17</sup>**

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

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

## **Annex E**

### **Information System on port State Inspections**

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

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

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

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

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

- inspection references;
- vessel identification ;
- fishing authorization(s) (licenses/permits);

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<sup>17</sup> More extensive criteria should be developed for the qualification (e.g. skills and knowledge) of port State inspectors. The skills and knowledge listed below are minimum requirements.

- trip information;
- result of the inspection on discharge;
- quantities staying on board the vessel;
- result of gear inspection;
- irregularities detected;
- actions taken; and
- information from the flag State.

## Appendix B

### CCAMLR CONSERVATION MEASURE 10-03 (2002)

#### Port Inspections of Vessels Carrying Toothfish

Species toothfish

Area all

Season all

Gear all

1. Contracting Parties shall undertake inspection of all fishing vessels carrying *Dissostichus* spp. which enter their ports. The inspection shall be for the purpose of determining that if the vessel carried out harvesting activities in the Convention Area, these activities were carried out in accordance with CCAMLR conservation measures, and that if it intends to land or tranship *Dissostichus* spp. the catch to be unloaded or transhipped is accompanied by a *Dissostichus* catch document required by Conservation Measure 10-05 and that the catch agrees with the information recorded on the document.
2. To facilitate these inspections, Contracting Parties shall require vessels to provide advance notice of their entry into port and to convey a written declaration that they have not engaged in or supported illegal, unregulated and unreported (IUU) fishing in the Convention Area. The inspection shall be conducted within 48 hours of port entry and shall be carried out in an expeditious fashion. It shall impose no undue burdens on the vessel or its crew, and shall be guided by the relevant provisions of the CCAMLR System of Inspection. Vessels which either declare that they have been involved in IUU fishing or fail to make a declaration shall be denied port access, other than for emergency purposes.
3. In the event that there is evidence that the vessel has fished in contravention of CCAMLR conservation measures, the catch shall not be landed or transhipped. The Contracting Party will inform the Flag State of the vessel of its inspection findings and will cooperate with the Flag State in taking such appropriate action as is required to investigate the alleged infringement, and, if necessary, apply appropriate sanctions in accordance with national legislation.
4. Contracting Parties shall promptly provide the Secretariat with a report on the outcome of each inspection conducted under this conservation measure. In respect of any vessels denied port access or permission to land or tranship *Dissostichus* spp., the Secretariat shall promptly convey such reports to all Contracting Parties.

## Appendix C

### REVISED ICCAT PORT INSPECTION SCHEME

**TITLE:** *Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme*  
(Entered into force: **June 13, 1998**)

*RECOGNIZING* that many parties currently have port inspection schemes in place;

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

1 Inspection shall be carried out by the appropriate authorities of the Contracting Parties, who will monitor compliance with the Commission's conservation measures for all ICCAT species, at their own ports, without discrimination. Inspectors shall produce identification as provided by the national government.

2 In the case of an apparent violation by a foreign fishing vessel, the inspector shall draw up a report of the inspection on a form standardized by the Commission, or on a form produced by the national government which collects the same quality of information. The inspector must sign the report in the presence of the master of the vessel, who shall be entitled to add or have added to the report any observations, and to add his own signature. The inspector should note in the vessel's logbook that an inspection was made. Copies of the form must be sent to the flag state of the vessel and to the ICCAT Secretariat within 10 days. In the case of a violation by a domestic vessel, domestic procedures will be followed for documentation, which must also provide the same quality of information as the standard ICCAT form.

3 An inspector may examine the fish, fishing gear, fish samples, and all relevant documents, including fishing logbooks and cargo manifest (in the case of a mother ship or carrier vessel), to verify compliance with ICCAT measures. The master of the vessel is required to cooperate with the inspector. Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.

4 Parties shall consider and act on reports of apparent violations by foreign inspectors on a similar basis as the reports of national inspectors in accordance with their national legislation. Contracting Parties shall collaborate, in accordance with their legislation, in order to facilitate judicial or other proceedings arising from reports of inspectors acting under these arrangements.

5 For cases in which an apparent violation has occurred, the vessel's flag state shall notify ICCAT of actions taken to address the violation.

6 All parties shall inform their vessel masters who are fishing on ICCAT species of the regulations. The masters shall also be instructed to cooperate with the inspectors in national as well as foreign ports.

7 Parties whose vessels enter, land, or tranship their catches in ports other than their own, can send their own inspectors to inspect their own vessels with respect to the

observance of the Commission's regulations, having previously obtained an invitation from the port state in which the inspection shall be executed. In addition, parties 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 strategies and operations that promote compliance with ICCAT's management measures. The countries' national report should include a description of such programs.

**NB:** The Commission agreed that most ICCAT recommendations can only be enforced during off-loading, and therefore this is the most fundamental and effective tool for monitoring and inspection. This recommendation would modify the existing ICCAT port inspection scheme to require national port inspection schemes and to provide minimum standards in conducting port inspection of foreign and domestic vessels during off-loading and transshipment operations of all ICCAT species. The purpose of the port inspection scheme is to ensure individual vessel compliance as well as to facilitate overall monitoring of each party's fisheries for ICCAT species. ICCAT hopes that the parties will actually exceed these minimum standards in order to effect timely and accurate monitoring of landings and transshipments, check compliance with ICCAT management measures, ensure quotas are not exceeded, and collect data and other information on landings and transshipment.

## **Appendix D**

### **NAFO Conservation and Enforcement Measures**

#### **Chapter V**

#### **INSPECTIONS IN PORT**

##### **Article 38 - Port Inspection Procedures**

1. When, in the port of a Contracting Party, a port call is made by a vessel which has been engaged in fishing for stocks subject to the Conservation and Enforcement Measures, that Contracting Party shall ensure that its inspector is present and that, on each occasion when catch is offloaded, an inspection takes place to verify the species and quantities caught. The port inspection report in Annex XIII shall be used. The Contracting Party shall ensure that the interference in the offloading activity is minimized that that the quality of the catch is not adversely affected.
2. The quantities landed by species and the quantities retained on board, if any, shall be cross-checked with the quantities recorded in logbooks, catch reports on exit from the Regulatory Area, and reports of any inspections carried out under the Scheme.
3. Any information from inspections under Chapter IV shall be verified.
4. Inspections shall include verification of mesh size of nets on board and size of fish retained on board.
5. Results of port inspections shall include at least the information listed in Annex XIII, Section B.
6. The competent authorities of Contracting Parties shall, every two years, check each of their vessels, notified in accordance with Article 15, to certify the correctness of the vessel's plans for fish rooms and other fish storage places. The master shall ensure that a copy of such certification remains on board to be shown to a NAFO inspector if requested.

##### **Article 39 - Transmission of Port Inspection Reports**

1. The competent authorities of the Port State shall, on request, transmit the results of the port inspection to the Flag State of the vessel within 14 working days of the date on which the port inspection was completed.
2. A copy of the results of the port inspection shall be transmitted to the Executive Secretary within 30 days as from the date on which the landing was completed and shall be provided to other Contracting Parties on request.
3. Where possible, Contracting Parties should transmit the results of the port inspection in accordance with this paragraph in the format defined in Annex XIII, Section A.

## **Appendix E**

### **Resolution 05/03 relating to the establishment of an IOTC programme of inspection in port**

#### **Resolution Adopted in 2005. This Resolution Supersedes Resolution 02/01**

The Indian Ocean Tuna Commission (IOTC),

TAKING NOTE of the results of the Intersessional Meeting on an Integrated Control and Inspection Scheme, held in Yaizu, Japan, from 27 to 29 March 2001.

NOTING that there is a general consensus of the Contracting Parties on the fact that the inspection in port is a central element of a control and inspection programme, and that it can be, in particular, an effective tool to fight against IUU fishing.

TAKING INTO ACCOUNT that Contracting Parties have agreed that the implementation of an integrated control and inspection scheme should follow a phased approach.

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

1. All measures provided for under this resolution shall be taken in accordance with international law.
2. Measures taken by a Port State in accordance with this Agreement shall take full account of the right and the duty of a Port State to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures.
3. Each Contracting Party and Cooperating Non-contracting Parties (hereinafter referred to as CPC's) may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals. Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
4. Each CPC shall, in accordance with the Resolution 01/03 establishing a Scheme to promote compliance by Non-Contracting Party vessels with resolutions established by the IOTC, adopt regulations in accordance with international law to prohibit landings and transshipments by non-Contracting Party vessels where it has been established that the catch of the species covered by the Agreement establishing the IOTC has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.
5. In the event that a Port State considers that there has been evidence of a violation by a Contracting Party or a Non-Contracting Party vessel of a conservation and management measure adopted by the Commission, the Port State shall draw this

to the attention of the Flag State concerned and, as appropriate, the Commission. The Port State shall provide the Flag State and the Commission with full documentation of the matter, including any record of inspection. In such cases, the Flag State shall transmit to the Commission details of actions it has taken in respect of the matter.

6. Nothing in this recommendation affects the exercise by States of their sovereignty over ports in their territory in accordance with international law. 7. While recognizing that inspection in port should be carried out in a non-discriminatory basis, in a first place, priority should be given to inspection of vessels from Non-Contracting Parties.

8. Each CPC shall submit electronically to the Secretary by 1 July of each year, the list of foreign fishing vessels which have landed in their ports tuna and tuna like species caught in the IOTC area in the preceding year. This information shall detail the catch composition by weight and species landed.

9. IOTC Resolution 02/01 Relating to the establishment an IOTC programme of inspection in port is superseded by this Resolution.