

A new global agreement for port state measures?





What are port State measures?

- Designation of ports of landing
- Inspections at port
- Prohibition of landing or transshipping
- Prohibition of accessing port services
- Denial of access to port
- Enforcement measures
 - Vessel detention
 - Seizure of catch and/or gear



Why are port State measures useful?

- Cost-effective
- Enhance the effectiveness of other measures against IUU fishing
 - Control
 - Implementation
- Respond to problems related to transshipment on the high seas of IUU fish



Recent developments

- NAFO (September 2006)
- CCAMLR (November 2006)
- NEAFC (November 2006)
- WCPFC (December 2006)
- SEAFO (October 2007)
- GFCM (February 2008)



“Ports of convenience”

- Extension of port State measures
- Coordination

Harmonization?

- FAO Port State Model Scheme



- A legally binding global agreement on port State measures...





The Draft Agreement on Port State Measures to Prevent, Deter and eliminate Illegal, Unreported and Unregulated Fishing

(as of March 2008)

<http://www.fao.org/docrep/010/a1375e/a1375e00.htm>



Development process

- FAO Port State Model Scheme (2005)
- COFI (March 2007)
- Experts Meeting (September 2007)

- Technical Consultation (June 2008)
- Consideration for approval at COFI 2009



Key elements of the Draft PSA

Scope

- only applies to foreign vessels
- applies also to support vessels



Key elements of the Draft PSA

Requirements prior to entry into port

- Publicize ports of entry
- Vessels provide advance notification and basic information requirements

Key elements of the Draft PSA

Denial of use of port (Art. 9)

- If flag State is not a member of the competent RFO
- If sighted as being engaged in, *or supporting*, IUU fishing
- If vessel is listed in *any* RFO IUU vessel list
- If vessel is not duly authorized by the competent RFO or by the competent coastal State

Burden of proof is with the vessel



Key elements of the Draft PSA

What kind of uses can the Port State deny?

- Draft PSA does not foresee denial of *entry* into port
- Denial of use of ports for landing, transshipping or processing of fish
- Denial of access to port services “in appropriate situations”



Key elements of the Draft PSA

Other obligations: Inspections

- Port State to conduct inspections
- Take actions following inspections
- Exchange information concerning port inspections
- Provide assistance to developing States



Next steps

- Keep core elements of the Draft:
 - Broad scope (also for domestic vessels)
 - Grounds for denial of port use (Art. 9)
 - Burden of proof with the vessel
- Aspects to be enhanced
 - Establish a solid funding mechanism for developing States
 - Facilitate its technical implementation (Annexes)
 - Contribute to the harmonization of international measures against IUU fishing



Thank You



CCAMLR Conservation measure 10-06 (2006)

Scheme to promote compliance by Contracting Party vessels with CCAMLR conservation measures

Para. 18

“Contracting Parties shall take all necessary measures, subject to and in accordance with their applicable laws and regulations and international law, in order that:

[...]

(iv) vessels on the CP-IUU Vessel List should be denied access to ports unless for the purpose of enforcement action or for reasons of *force majeure* or for rendering assistance to vessels, or persons on those vessels, in danger or distress. Vessels allowed entry to port are to be inspected in accordance with relevant conservation measures;



CCAMLR Conservation measure 10-06 (2006)

Scheme to promote compliance by Contracting Party vessels with CCAMLR conservation measures

Para. 18

“Contracting Parties shall take all necessary measures, subject to and in accordance with their applicable laws and regulations and international law, in order that:

[...]

(v) where port access is granted to such vessels:

(a) documentation and other information, including DCDs where relevant are examined, with a view to verifying the area in which the catch was taken; and where the origin cannot be adequately verified, the catch is detained or any landing or transshipment of the catch is refused; and

(b) where possible

i. in the event catch is found to be taken in contravention of CCAMLR conservation measures, catch is confiscated;

ii. all support to such vessels, including non-emergency refuelling, resupplying and repairs is prohibited.



CCAMLR Conservation measure 10-07 (2006)

Scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures

Para. 22

“Contracting Parties shall take all necessary measures, subject to and in accordance with their applicable laws and regulations and international law, in order that:

[...]

(iii) vessels on the NCP-IUU Vessel List should be denied access to ports unless for the purpose of enforcement action or for reasons of *force majeure* or for rendering assistance to vessels, or persons on those vessels, in danger or distress. Vessels allowed entry to port are to be inspected in accordance with relevant conservation measures;

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NEAFC Scheme of control and enforcement

For foreign Contracting Parties

Chapter V. Port State Control of foreign fishing vessels

Articles 20-27

For non-Contracting Parties

Chapter VII. Measures to promote compliance by non-Contracting Party fishing vessels

Articles 39-40



NAFO

For foreign Contracting Parties

Chapter V. Inspections in Port

Articles 39-40

For non-Contracting Parties

Chapter VI. Scheme to promote compliance by non-Contracting Party vessels with the recommendations established by NAFO

Article 44



SEAFO

- Conservation Measure 09/07 to Amend and Consolidate Conservation Measure 02/05 Relating to Interim Port State Measures