

Report of the

**FAO REGIONAL WORKSHOP ON PORT STATE MEASURES TO
COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

Cape Town, South Africa, 28–31 January 2008



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PREPARATION OF THIS DOCUMENT

This is the final report of the FAO Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing that was held at the Cape Town International Convention Centre in Cape Town, South Africa, from 28 to 31 January 2008.

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ABSTRACT

This document contains the report of the FAO Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing, which was held at Cape Town, South Africa, from 28 to 31 January 2008. The objective of the Workshop was to develop national capacity and promote bilateral, sub-regional and/or regional coordination so that countries will be better placed to strengthen and harmonize port State measures and, as a result, implement the relevant International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) tools and the FAO Model Scheme and contribute to the development of a legally-binding instrument on port State measures. The Workshop addressed: background and framework for port State measures; global and regional issues relating to IUU fishing and port State measures, and the 2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing; the 2007 draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the implementation of regional and national port State measures; adoption and implementation of port State measures by regional fisheries management organizations (RFMOs) and the implementation of measures in the Southern and East Africa subregion; operational and information requirements for effective port State measures; industry perspectives on port State measures and national responses to questionnaires; and key issues for further action and cooperation in strengthening and harmonizing port State measures. Working groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. In one exercise they addressed various aspects of port State measures, and recommended and prioritized areas for regional cooperation in implementing port State measures. They also identified further types of support needed to implement port State measures and in another exercise they considered certain thematic aspects relating to the FAO Model Scheme and the draft Agreement on port State measures. This exercise included legal aspects, information requirements, systems and inspection procedures, the results of inspection and training. Funding and support for the Workshop were provided by the FAO Regular Programme, by the Government of Norway through the Trust Fund for Port State Measures (MTF/GLO/206/MUL) and the FishCode Programme (MTF/GLO/125/MUL [Sweden-SIDA] [SWE/05/IUU Port State Measures/IUU fishing]). Funding was also provided by the UK Department for International Development (DFID).

Distribution:

Participants
FAO Fisheries Officers, Regional and Subregional Offices

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OPENING OF THE WORKSHOP

1. The Food and Agriculture Organization of the United Nations (FAO) Subregional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing was held at the Cape Town International Convention Centre in Cape Town, South Africa, from 28 to 31 January 2008.
2. The Workshop was attended by 23 participants from certain FAO Members in the Southern and East Africa Subregion and 13 resource persons. A list of participants and resource persons is attached as Appendix B.
3. Dr David Doulman, Senior Fishery Liaison Officer, FAO Fisheries and Aquaculture Department, Rome, Italy, called the Workshop to order. He welcomed participants, resource persons and FAO colleagues pointing out that the Workshop was timely for the subregion since illegal, unreported and unregulated (IUU) fishing around the world was not diminishing. He noted that strenuous efforts were required to address IUU fishing on all fronts, including through the implementation of effective port State measures and traceability schemes. Dr Doulman stressed that the economic incentives to engage in IUU fishing must be removed in order to reduce its scope and intensity. On behalf of FAO and the participants at the Workshop, he expressed his thanks to the donors who were co-funding the Workshop, the Governments of Sweden, Norway and the United Kingdom. He also noted that the FAO Regular Programme had contributed to it.
4. Dr Doulman read a statement on behalf of Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries and Aquaculture Department, Rome, Italy. *Inter alia*, he traced events from the development of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) through to a recent FAO Expert Consultation to elaborate a legally-binding draft instrument on port State measures. In conclusion, he wished participants a very productive Workshop. Mr Nomura's statement is in Appendix D.
5. Mr Tim Bostock, Coordinator, Fisheries Support Programme, UK Department for International Development (DFID), was invited to make a statement. It is in Appendix E.
6. Dr Monde Mayekiso, Deputy Director General, Marine and Coastal Management, South Africa warmly welcomed participants and resource persons to the Workshop, pointing out that port State measures were an important means for addressing IUU fishing. His statement is in Appendix F.
7. Ms Judith Swan, Legal Consultant, Fisheries and Aquaculture Department, FAO, Rome, Italy, and Workshop Coordinator briefed the Workshop on the technical aspects of the meeting. She encouraged full and robust engagement by all participants and invited them and resource persons to introduce themselves.
8. Dr Warren Potts, Consultant, Enviro-Fish Africa, and Workshop Administrator, outlined logistical arrangements for the Workshop. He advised participants and resource persons that all the power point presentations would be made available at the conclusion of the Workshop on a CD-Rom.
9. Dr Hashali Hamukuaya, Executive Secretary, South East Atlantic Fisheries Organization (SEAFO), Windhoek, Namibia, was selected to chair the Workshop. In accepting the role, he expressed his gratitude to FAO and the participants for the confidence they had in selecting him.
10. The Agenda for the Workshop is attached as Appendix A and the list of documents is attached as Appendix C.

BACKGROUND AND FRAMEWORK

11. Dr Doulman made a presentation entitled “International framework for port State measures to combat IUU fishing: towards more stringent and binding measures”. Its purpose was to provide an overview of the international framework for port State measures for fishing vessels, showing how these measures had evolved primarily to support improved goals of long-term sustainability and enhanced fisheries governance. The presentation also outlined why port State measures had assumed an increasingly important role, concurrent with the international concern about IUU fishing, and explained planned future FAO developments to strengthen port State measures through the development of a legally-binding instrument. In its conclusion, the presentation noted that IUU fishing remained a serious impediment to sustainability in fisheries and that ongoing political commitment was required to underpin measures that would inhibit or prevent financial flows to IUU fishers, the main incentive to engage in IUU fishing. In combination, the use of market-related and port State measures probably offered the best opportunities to achieve this goal. In addition, the presentation pointed out that the use of minimum standards in a binding instrument on port State measures could assist countries revise and strengthen both their policy and legislation in a timely manner.

12. Ms Swan introduced developments relevant to port State measures at international and regional levels. She referred to the international instruments of the International Maritime Organization (IMO) that had underpinned rigorous port inspection measures for merchant vessels and to relevant developments in FAO since 2002. She underlined the governance role of regional fisheries management organizations (RFMOs) in strengthening and harmonizing port State measures, noting the increasing number of RFMOs and the expansion of their initiatives to address IUU fishing through port State measures. Ms Swan also explained the importance of linking port State measures with other compliance tools such as flag State responsibility, documentation and information and vessel monitoring systems, and described recent developments in these areas.

13. In discussion, the wide range of international instruments that addressed IUU fishing was acknowledged. However, concern was expressed that not all countries complied with the instruments and options to secure compliance were explained. They included, for binding instruments, ensuring that mechanisms for cooperation were integrated into the text such as providing for the role of the flag State in applying the draft instrument on port State measures. Other options included diplomatic pressures, economic measures applied in a fair and transparent manner and dispute settlement procedures incorporated in the text of the instrument.

14. Mechanisms to ensure timely entry into force of a binding instrument were reviewed, such as agreeing on a reasonable and representative number of minimum Parties. It was noted that it would be preferable for the draft instrument on port State measures to enter into force at an early date but that agreement on the entry into force was a matter for the June 2008 FAO Technical Consultation.

15. The potential for collaboration with IMO was discussed and it was explained that an expert from the IMO had been involved in the development of the draft instrument to ensure that reporting and other relevant actions would be complimentary.

16. The potential linkages between port State measures and trade were addressed and were considered to be significant in efforts to combat IUU fishing. However, the draft instrument did not currently refer to trade measures because it was considered to be a fisheries rather than a trade agreement. As a fisheries instrument, it would control landings, transshipments, processing and use of ports, all of which impacted trade. The consequences of “ports of convenience” were noted in this context and it was acknowledged that flag States could play a role by prohibiting their vessels from using “ports of convenience”. The potential for strengthening flag State responsibility was raised by the initiative underway to identify criteria and action to be taken when such criteria were not met.

17. Recent developments in the European Community were recalled that will integrate port State measures with trade and market measures, including their application to the import of fish by sea, land

and air. The outcomes of the October 2007 Ministerial Meeting on IUU Fishing in Lisbon, Portugal, in this regard were noted.

18. The effectiveness of governance by regional fisheries management organizations (RFMOs) in relation to port State measures was underlined and the importance of ongoing training to support the implementation of port State measures at national level was agreed.

GLOBAL AND REGIONAL ISSUES RELATING TO IUU FISHING AND PORT STATE MEASURES AND THE 2005 FAO MODEL SCHEME ON PORT STATE MEASURES TO COMBAT IUU FISHING

19. Dr Doulman made a presentation entitled “What do we know about IUU fishing globally”. He commenced by reviewing the definitions of IUU fishing and then discussed global issues, pointing out that IUU fishing was increasing and that raising fish prices provided a strong incentive because it was becoming more lucrative. He then turned to review the global assessments of IUU fishing that had been made, noting that it was difficult to assess such fishing because of its covert and clandestine nature. Dr Doulman added that efforts to refine global assessment were being undertaken on a regional basis with specialist inputs of RFMOs. He then summarized the information on IUU fishing contained in the responses that FAO had received for its 2007 report to the Committee on Fisheries (COFI). This information related to the problems being encountered by countries and the solutions they had proposed to address them. He continued that “flag of non-compliance” and “ports of convenience” supported and encouraged IUU fishing. He then summarized the range of global measures that were being strengthened to combat IUU fishing, and concluded that enhancing regional cooperation to combat IUU fishing in the Southern Africa subregion would serve to protect national and regional fisheries wealth.

20. Mr Per Erik Bergh, Consultant, UK Department for International Development, Gaborone, Botswana, commenced his presentation by noting that IUU fishing was a global issue with many harmful environmental, economic and social impacts. The need for strengthened fisheries governance at national and regional levels had been recognized increasingly by the international community if IUU fishing was to be eradicated. He pointed out that the global trade in IUU-caught fish and fish products was estimated to be worth between US\$4–14 billion per year. However, he added that a DFID-supported research project had suggested that the global value of IUU-caught product entering international trade was around US\$9 billion a year, while another estimate by the European Community indicated that it was between US\$4.3–14.4 billion annually. Possibly US\$1.0 billion of this trade was from sub-Saharan Africa. This amount was equivalent roughly to one quarter of Africa’s total annual fisheries exports. Mr Bergh continued pointing out that five out of the eight Southern African Development Community (SADC) countries were in the top ten African countries for fish exports in 2003. These countries were Madagascar, Mozambique, Namibia, South Africa and Tanzania. The contribution of the value of fish exports to the total value of national exports was 20 percent for Namibia and just below 10 percent for Mozambique. The SADC export value of fish and seafood in 2004 was estimated to be US\$1.3 billion. He noted that losses as a result of IUU fishing within the SADC region are estimated at US\$50 million in Angola, US\$40 million for Mozambique and little or nothing for Namibia. Losses were unknown for South Africa and estimated for Madagascar at 20 percent of the total catch value (potentially US\$37 million based on the value of exports). The situation was likely to be worse those countries with limited MCS capacity, such as the United Republic of Tanzania and the Democratic Republic of the Congo.

21. Mr Bergh advised the Workshop that the main IUU fishing issues in the SADC region had been reported by the SADC countries to be: fishing carried out by non-licensed vessels in EEZs; conflict between artisanal and industrial fleets in inshore areas; misreporting of catches; bycatch and discard within certain fisheries such as the scrimp fisheries; fishing in restricted areas and during closed seasons; disagreement with management measures between fishers and management authorities; use of harmful fishing practises such as dynamite and poison and fishing by non-party vessels within the RFMO areas bordering the SADC countries’ EEZs. He added that concerns were

also raised in relation to distant-water fishing nations (DWFN) complying with agreed management measures and reporting regimes under fishery agreements and the associated protocols, and issues relating to fishing harbours not supporting sustainable fisheries management practices such as Las Palmas in the Canary Islands.

22. Mr Terje Lobach, Special Advisor to the Directorate of Fisheries, Bergen, Norway, made a presentation of the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing (Model Scheme). In his introduction he mentioned the guidance for focusing on port State measures found in other international instruments, in particular the IPOA-IUU. He also explained the development of the Model Scheme, leading up to its endorsement by COFI in 2005. He then went through the various elements of the Model Scheme, including its objective and scope, which vessels should be targeted by port authorities, the details of the prior notification requirements as well as possible reactions based on such notifications. He then explained the standards concerning inspections in port, including formal requirements, the execution of an inspection and how to react if involvement in IUU fishing is disclosed during an inspection. He emphasized the need to rapid exchange of information, and referred to the guidance given in this regard in the Model Scheme. Finally, Mr Lobach discussed the clauses on *force majeure*, the sovereignty of the ports and the relationship between the scheme and international law.

23. Following the presentations, it was pointed out in discussions that the movement from longlining to the use of large-scale gillnets on the high seas was a highly destructive fishing practice because of its non-selectivity. Not only did this gear significantly impact fish stocks but its impact on the ecosystem was also notable. It was recalled that the UN moratorium on the use of large-scale pelagic driftnets was introduced in 1989 as a conservation and management measure. Driftnets greater than 2.5 km in length were banned, although it was pointed out that States were at liberty to specify shorter length in their national legislation. Since its adoption, the UN resolution containing the moratorium had not been revisited to consider amendment although this could be possible if fisheries conditions warranted such reconsideration.

24. It was advised that carrier vessels were extremely difficult to deal with from the point of view of port inspection, especially multi-cargo vessels. The view was expressed that guidelines were required on how inspection for these vessels should be carried out. It was noted that under the proposed binding instruments, port States would have no obligation to inspect cargo vessels unless the fish on board was entering port as a “first point of landing”. However, inspections would be required for fish transhipped at sea prior to the vessel entry into port.

25. The importance of vessel lists was underscored and the possibility of developing lists of vessel owners and operators who were engaged in IUU fishing was raised. The Workshop was advised that such lists had not been developed and that under the draft binding instrument on port State measures, countries should be able to ascertain whether a vessel was a habitual IUU fishing vessel from the notification procedure. Addressing illegal operators was an issue that should be dealt with under national legislation. It was noted that legislation could be extended to cover not only vessel operators and owners but also their shore-based agents.

26. Concerning the scope and extent of IUU fishing in the Southern and East Africa Subregion, it was pointed out that it would be useful to refine estimates of IUU fishing, with estimates broken down by catches within EEZs and catches on the high seas. The DFID supported “Stop Illegal Fishing” Programme would attempt to identify more accurate estimates working with countries and the data that they had available.

27. The question was raised as to whether a port State could deny an IUU fishing vessel entry to port solely for the purposes of reprovisioning. In response it was noted that many issues needed to be considered but in general a port State could deny access to any fishing vessel. It was also queried whether “non-compliance” was considered to be IUU fishing. It was pointed out that non-compliance

by a fishing vessel with its terms of authorization etc would be a clear breach of its authorization to fish and as a consequence would be IUU fishing.

2007 DRAFT AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING AND THE IMPLEMENTATION OF REGIONAL AND NATIONAL PORT STATE MEASURES

28. Ms Swan described the background, approach and methodology to the development of the 2007 draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, noting the recognition of the need for a robust, forward-looking instrument. She described the framework and content of the draft Agreement and explained that it would apply to all fish taken at sea until its first landing. The rights and duties of the port State as elaborated in the Agreement were explained, as well as linkages with RFMOs and the role of flag States. Ms Swan noted that the Annexes had been reviewed and updated from those in the FAO Model Scheme, and contributed to the comprehensive and clear basis provided by the draft Agreement for strengthening and harmonization of port State measures.

29. Mr Lobach provided an overview of the actions taken by RFMOs concerning the implementation of port State measures. In his presentation he focused both on general port State measures (notification requirements, inspections and actions by port States) and on other MCS tools, which contained port State obligations. With respect to the latter, he explained the linkages to port State measures of various schemes of vessel listing, trade- and marked-related measures as well as the regulation of transshipment.

30. Mr Lobach highlighted actions taken by various RFMOs, such as the Commission for the Conservation of Antarctic Living Marine Resources (CCAMLR), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC), the Northwest Atlantic Fisheries Organization (NAFO), the North East Atlantic Fisheries Commission (NEAFC) and the South East Atlantic Fisheries Organization (SEAFO). Each of these organizations had introduced systems of blacklisting IUU vessels, requiring, among other things, port States to take specific actions against such vessels. Actions agreed by the various organizations varied significantly with some denying access while others allowing such vessels to enter port and be subject to a thorough inspection. Some organizations had, in addition, established authorized vessel lists, implying that port State actions shall be taken against vessels not included in those lists. Furthermore, Mr Lobach mentioned that many RFMOs had introduced specific schemes concerning transshipments with SEAFO being the most radical by banning all at-sea transshipments. For other RFMOs, special requirements applied in ports. His presentation also indicated that many RFMOs had agreed to trade- and market-related measures, containing special obligations for port States. In addition, CCAMLR had introduced a catch documentation scheme, which required actions by port States.

31. Mr Lobach also presented the new NEAFC scheme that to a great extent built on the FAO Model Scheme. NEAFC had, however, gone further by putting clear responsibilities on the flag State before a vessel was allowed to unload its catch or cargo. In this context, he described the main IUU fishing problems in the NEAFC area. As a result of the new Port State Measures Scheme and in combination with other MCS tools, these problems had been reduced considerably.

32. Mr Blaise Kuemlangan, Legal Officer, Development Law Service, Legal Office, FAO, Rome, Italy, gave a presentation on the elements for national legislation on port State measures and the Lacey Act-type clause. He noted that national legislation was an essential institutional framework for implementing port State measures just as it was a necessity for fisheries management, and in particular for fisheries monitoring, control and surveillance (MCS) and enforcement. He added that national legal frameworks were vital as they translated international obligations and commitments, including those under voluntary instruments, into national legal and therefore enforceable requirements. With respect to the elements for a robust legal framework on port State measures, he noted that the basic requirement was to ensure a strong legal framework for MCS and enforcement within which port State

interventions against IUU fishing could be based. As a minimum, it should define the powers, duties and obligations of the management and enforcement authorities; provide the basis for implementing various MCS tools; protect the interests of fishers (e.g. confidentiality of information); grant enforcement powers (e.g. arrest, detention, seizures); safeguard basic civil rights in enforcement action; and establish judicial or alternative enforcement systems for penalizing violators and the applicable procedures and sanctions.

33. In order for the national legal framework to support the implementation of specific port State measures, Mr Kuemlangan explained that it should enable competent authorities to undertake the activities and measures set out in the FAO Model Scheme noting that they had been elaborated in the draft Agreement on Port State Measures to Prevent Deter and Eliminate Illegal, Unreported and Unregulated Fishing. These activities and measures included the designation of ports, requirements for notification and the time limits for such notification, inspections in port and the range of powers and responsibilities of the inspector and enforcement action in the case where there was evidence of IUU fishing.

34. Mr Kuemlangan then gave an overview of the Lacey Act-type clause. He described it as an offence involving the import of species illegally taken in contravention of another State's laws, including fish (i.e. the underlying violation). He remarked that the possibility to legislate a Lacey Act-type clause in the Pacific Islands region was discussed at the regional level but the enactment of legislation was done unilaterally by individual members of the Pacific Islands Forum Fisheries Agency (FFA), including Papua New Guinea. In drafting legislation, giving a broad meaning to the word "import" and "persons" was important. Mr Kuemlangan also gave an account of Papua New Guinea's first case against an offender charged with violation of its Lacey clause. He commented on the fact that the issues that were raised in the drafting of legislation were also raised in the courts during prosecution. Thus it was vital that the drafting exercise foresee the problems that could be raised in enforcement and deal with them in a satisfactory way so that prosecutions were not compromised on technical grounds. He stated that success in trial required proper preparation including securing sound evidence and the use of experts and aids to present a convincing case. It was also noted that issues such as proving the existence of foreign law which was violated (i.e. the underlying violation) and a keen awareness of the applicable rules of evidence were important for successful prosecution.

35. Following the presentations clarification was given in respect to the proposed fund for developing countries provided in the draft Agreement. The objectives of the fund were similar to the Part VII Fund established under the 1995 UN Fish Stocks Agreement, with the main difference being in the application of the fund; the latter applying only to fishing for high seas highly migratory and straddling fish stocks. It was explained that the proposed fund would assist in the implementation of the draft Agreement, which applied to IUU fishing for all species in all areas.

36. It was noted that, where a vessel was denied access to a port, it would ultimately land its IUU catch somewhere; in such cases it was suggested that consideration be given to including a reference to penalties in the draft Agreement. It was noted that the imposition of penalties by "ports of convenience" would not be a practical option for consideration, however the denial of use of a port would have adverse economic consequences for the owner of the vessel as it did in the case of Polestar. Also, the entry into force of the globally binding instrument on port State measures would make it more difficult to sell fish in a port of a non-Party to the Agreement.

37. Concerns about the potential complexities of implementing the draft Agreement in national law were expressed. It was explained that countries were likely to already have basic legislation in force, and that the need by developing countries for technical and other assistance to update national legislation was acknowledged and addressed in the draft Agreement.

ADOPTION AND IMPLEMENTATION OF PORT STATE MEASURES BY RFMOS AND THE IMPLEMENTATION OF MEASURES IN THE SOUTHERN AND EAST AFRICA SUBREGION

38. Dr Hamukuaya made a presentation on the adoption and implementation of SEAFO's port State measures. It highlighted Article 15 of the SEAFO Convention that enshrined the provisions that dealt with port State duties and measures. The Convention empowered a port State to inspect documents, fishing gear and catch on board the fishing vessels when such vessels were voluntarily in its ports or at its offshore terminals. It further prohibited landings and transshipments by vessels flying the flag of non-Parties to the Convention engaged in IUU fishing activities. He described the elements of the port State measures adopted by SEAFO that included the scope and application, designation of ports, register of ports, condition of access, prohibition of landings, conditions for transshipments, procedures for port inspection and reporting and training of inspectors. The presentation also provided summary information on other measures adopted by SEAFO to combat IUU fishing including the listing of vessels engaged in IUU fishing activities, joint listing with other RFMOs (NEAFC, NAFO and CCAMLR), the establishment of the SEAFO Register of Authorized Fishing Vessels and the establishment of the Compliance Committee.

39. Ms Natasha Slicer, Compliance Officer, CCAMLR, Hobart, Tasmania, provided an overview of CCAMLR's IUU fishing problem in the Patagonian Toothfish fishery and the measures the Commission had taken to address it. The presentation discussed five measures: the Catch Documentation Scheme (CDS), licensing, port inspections, centralized vessel monitoring system (VMS) reporting and the IUU Vessel List, all of which provided tools for port States to combat IUU fishing. Ms Slicer reviewed how these measures worked together and outlined their impact on the levels of IUU fishing in the Commission's area. The presentation demonstrated how the measures combined had contributed to a reduction of 90 percent in IUU catches of toothfish over the past decade and more than halved the active IUU fishing fleet in area. In particular, it was noted that CCAMLR had exhausted at-sea enforcement measures and was now looking towards enhanced port control to address its remaining IUU fishing problems.

40. Mr André Share, Second Vice-Chair of ICCAT and Chief Director, Marine Resource Management, Marine and Coastal Management, Department of Environmental Affairs and Tourism, Cape Town, South Africa, made a presentation on resolutions and recommendations adopted by the Commission relevant to port State measures. Following a brief overview of ICCAT and its Convention Area, he dealt with the applicable conservation and management measures. He highlighted the relevant measures, resolutions and recommendations adopted by ICCAT pertaining to IUU fishing and port State measures. He pointed out that ICCAT maintained lists of authorized and IUU fishing vessels (vessels greater than 24 metres) including carrier vessels. In respect of bluefin tuna, records of fishing and farming vessels, farming facilities, traps and landing and transshipment ports were maintained. Mr Share advised the Workshop of some recent measures adopted by ICCAT and ongoing efforts by the Commission to strengthen the organization. Furthermore, the presentation touched on the performance review of ICCAT and the fact that cooperation with other RFMOs, and in particular tuna RFMOs, was initiated in order to harmonize actions especially with respect to combating and eradicating IUU fishing.

41. Mr Bjorn Fagerholm, Secretariat, South West Indian Ocean Fisheries Commission (SWIOFC), Subregional Office for Southern Africa, FAO, Harare, Zimbabwe, made a presentation about the Commission. It also addressed the Southern and Eastern African Forum to Counter IUU Fishing that was held in Maputo, Mozambique from 29 to 31 October 2007. The outcome of the Forum's discussions relating to regional cooperation on MCS included the following issues: positive inputs for the formulation of a SADC Fisheries Ministers' Declaration on IUU fishing; the possibility of the Indian Ocean Commission (IOC), SWIOFC and IOTC fostering enhanced regional cooperation; the need to avoid duplication with existing and new MCS initiatives in the region because of the limited availability of resources and the general lack of MCS capacity and support in continental countries in the region compared to island countries. The presentation noted that the outcome of the

Maputo Forum received considerable support and commitment from many countries and key persons in the region.

42. Significantly, it was reported that in the Forum, the Government of Mozambique offered to set up a Network of Heads of MCS Operations for the coastal States in Southern and Eastern Africa. This issue was also addressed at the SWIOFC session in December 2007. The Commission encouraged and supported its Members to attend relevant regional initiatives such as training workshops on port inspection, the development of national plans of action to combat IUU fishing, the development of a directory of MCS personnel in the region and a reporting system, the compilation of an inventory VMS facilities within the region and proactive initiatives such as the Maputo Forum.

43. Mr Shaheen Moolla, Director, Feike Natural Resource Management Advisors, Cape Town, South Africa, made a presentation concerning his report relating to the implementation of Port State measures in the SADC region. It examined the status of port State control measures in SADC countries, not only identifying some of the more significant challenges faced by these countries in the implementation of port State measures, but also proposed solutions.

44. Mr Moolla recalled that notwithstanding the fact that the harvesting of, and trade in, marine living resources contributed vastly and in varying amounts to the SADC coastal States' gross domestic products, he observed that a sustainable marine environment was of crucial importance to the socio-economic well-being of SADC's growing coastal populations. He added that the increasing demand for seafood by the world's growing population placed unsustainable pressure on global fish stocks. SADC waters were not immune from this pressure, which was growing from both unsustainable legal and illegal fishing operations. The international fight against IUU fishing had various important components. One of these was the set of measures agreed in FAO in the IPOA-IUU, and aptly termed Port State Control Measures.

45. Discussion following the presentations raised a number of pertinent issues for further consideration by the Workshop. It was noted that port and coastal States could be in a position to seize and sell IUU fishing vessels. However, if these vessels were included on an IUU fishing vessel list, the Workshop supported the view that the apprehending State should have the opportunity to remove these vessels from the list prior to their sale.

46. It was pointed out that considerable resources were required to conduct thorough inspections of IUU fishing vessels. It was noted that a full unload of the vessel could take three to four days and resources were not always available to provide full supervision and monitoring. This meant that port officials were often required to rely on the declarations made by the fishing vessel. This situation disadvantaged the port State. It was further observed that procedures were required to prevent the deterioration of fish and fishery products confiscated as a result of inspections. Moreover, the Workshop discussed the difficulties associated with inspecting fish products that had entered territories from cargo vessels or by road.

OPERATIONAL AND INFORMATION REQUIREMENTS FOR EFFECTIVE PORT STATE MEASURES

47. Mr Peter Flewwelling, International MCS Advisor, National Directorate of Fisheries Administration, Maputo, Mozambique, made a presentation entitled "Operational Components of Effective Port State Measures: operational requirements, information and training". It reviewed legal background and theory, suggesting that although the FAO Model Scheme focused on foreign fishing vessels, it could be adopted by responsible fishing countries for both national and foreign fleets. He reminded the Workshop of the possible ultimate consequences of non-compliance and harbouring IUU fishers, especially with respect to the interruption of trade. He noted that the existence of "ports of convenience" in the Southern Africa Subregion would undermine efforts by other countries to combat IUU fishing, and outlined the proposed steps to implement port State measures. He also reviewed recent changes in Mozambique's systems to provide a practical demonstration of new strategies being

adopted to facilitate regional cooperation and also to strengthen actions against IUU fishing. These strategies included new application and licensing processes, benefits of pre-fishing briefings, enhanced port and sea inspection procedures, inter-agency guidelines for cooperation on port State measures and the adoption of an integrated data system (Fisheries Integrated Statistical System: FINSS++ new modules), for complete “value chain” monitoring from sea to table. Mr Flewwelling stressed that training and government commitment were key elements to the successful implementation of port State measures and common regional training standards should be adopted.

48. Mr Marcel Kroese, Director, Coastal and Environmental Services, Environment Management and Impact Assessment, Grahamstown, South Africa, made a presentation about information requirements for systems to support port State measures in combating IUU fishing. It focused on actions that a port State could take to regulate and control fisheries-related activities that might be carried out by vessels in the ports, which included offshore terminals and other installations for landing, transshipping, refuelling or re-supplying. He noted that the port State measures process essentially comprised of four steps; the application, the verification, the authorization and the inspection. Mr Kroese underscored the point that port State measures, once the legislative matters had been addressed, failed mainly in the realm of fisheries administration because their successful implementation relied heavily on functioning administrative systems. In terms of the information and technology required, a port State measures scheme’s data requirements could be handled adequately by a standard desktop computer.

49. Following the presentations, a query was raised about the need to update fisheries laws and harmonize legislation in the region. It was suggested that an analysis should be undertaken to determine whether older fisheries laws might act as an impediment to harmonization and the implementation of recent regional and international obligations with respect to port State measures. It was proposed that a review of the legislative gaps identified by the SADC/European Union-funded MCS Programme should be undertaken and that these gaps should be addressed. It was noted that as participants in the SADC/EU-funded MCS Programme, South Africa, Namibia, Angola, Mozambique and Tanzania were to have commenced a process towards the harmonization of legislation. The Workshop was advised that the IOC had supported a programme of legislative development and harmonization in Mauritius. A new Mauritian fisheries law was to be promulgated in 2008.

50. In reviewing the issue of harmonization the Workshop emphasized that it should not only be limited to original legislation (such as Acts of Parliaments) but subordinate laws, including regulations and decrees, that addressed more technical aspects of fisheries management and enforcement. By way of example, the types of sanctions applied for IUU fishing should be harmonized and be of sufficient gravity so as to outweigh the potential financial benefits of IUU fishing.

51. It was suggested that as a means of developing better working relations and greater levels of cooperation with foreign flagged vessels calling at SADC ports, regular interaction between the port State and applicable flag States should be encouraged. The Workshop also noted the challenges in implementing port State measures posed by the increasing prevalence of fraudulent documentation, internal governmental bureaucracies and diplomatic protocols.

52. Taking note of the challenges faced by the eight SADC port States and the increasing availability of MSC resources such as VMS, patrol vessels, aerial surveillance craft, national IUU fishing vessel activity databases and fishery control officers, it was proposed that these resources should be pooled or shared among countries as a means of enhancing the region’s MCS capacity.

INDUSTRY PERSPECTIVES ON PORT STATE MEASURES AND NATIONAL RESPONSES TO THE QUESTIONNAIRES

53. Mr Richard Ball, Marketing Manager, Pioneer Fishing Group, Cape Town, South Africa, outlined some significant contributions to fisheries conservation and management that were made by legal operators. Their ultimate interest, to keep the species, economically viable, was achieved *inter*

alia by providing scientific and monitoring input and the development of responsible fishing techniques. He explained various activities of IUU fishers that impacted adversely on legitimate fishers and, while paying tribute to the IPOA–IUU, noted that as a voluntary instrument it was directed more at administrative actions than economic outcomes.

54. Mr Ball proposed a range of actions that could be used to combat IUU fishing including:

- the coordination of all efforts against IUU fishing;
- resisting over-regulation of legal operators;
- raising the operational costs and risk levels of IUU fishers;
- investigating finances, tax affairs and assets: i.e., following the IUU fishers' money;
- declaring IUU fishers *persona non grata*;
- paying rewards leading to the arrest of IUU fishers;
- increasing penalties;
- giving State support to non-government organizations (NGOs) that contributed successfully to the reduction of IUU fishing;
- involving NGOs in vessel inspection, as appropriate;
- ensuring that all legal options were used: e.g. by the use of temporary detention of vessels putting pressure on suppliers, fishing companies, and
- changing the onus of proof, as appropriate, so that the vessel operator is responsible for proving good behaviour.

55. In discussion, it was noted that the laws applicable to a major IUU fishing case in South Africa resulted in fines and forfeiture of the vessel. However, when the same case was prosecuted in the USA its laws permitted higher fines, imprisonment and compensation for environmental crime. Taking into account the profits amassed over many years by the IUU fishers, it was suggested that stronger laws (both primary and secondary) were needed to offset the ill-gotten-gains from IUU fishing activities. Precedent in the Pacific Island Region was referenced for such laws, including those with high penalties and the reversal of onus proof provisions. The Workshop agreed that exposure of IUU fishers and public relations campaigns had a beneficial effect on combating IUU fishing.

56. With respect to compensation for damage caused to resources by IUU fishers, it was pointed that the IUU fisher mentioned above who was prosecuted both in South Africa and the United States of America may be liable for the payment of compensation. It was also noted that in the Pacific Islands, some FFA Member countries had implemented laws that required compensation from IUU fishers for damage caused to resources by their fishing activities.

57. A reference was made to a reefer company in South Africa that required a declaration by the owners of fish cargo that shipments did not include IUU-caught fish. This development was considered extremely positive.

58. Mr Moolla provided a consolidated summary and analysis of the participants' responses to questionnaire on port State measures that was distributed prior to the Workshop. He pointed out that the SADC coastal States were responsible for managing and monitoring some seven million square kilometres of the South East Atlantic and South West Indian Oceans. The costs of effectively undertaking this task was prohibitive. Increasingly, these countries recognized the significant value of port State measures as a principal MCS tool to curb the trade in, landing and transshipment of IUU-caught fish. He explained that foreign fishing vessels could be authorized to call at some 20 SADC ports. In excess of 2 500 foreign fishing vessels visited SADC ports annually. Although SADC port States had broadly promulgated legislation that could give effect to port State measures, these States continued to face a number of daunting challenges in the day-to-day control of IUU-caught fish that could be landed in their ports. Mr Moolla added that the challenges faced by countries in attempting to implement effective port State measures included:

- too few and poorly trained fishery inspectors who did not have any training in port State measures procedures;
- an inability to track foreign fishing vessel activity once authorized to enter a SADC port State's EEZ;
- poor or no coordination between government departments including those responsible for fisheries, port authorities and trade, and
- a lack of financial resources.

At a regional level, differing regulatory systems and policies dealing with fisheries management and IUU fishing and related activity, in particular, did not allow for effective sharing of information, coordination of MCS activities and alignment of laws, particularly sanctions.

59. It was noted by the Workshop that all SADC port States had reaffirmed their commitment to implement port State measures and considered a number of possible interventions that could support the implementation of such measures. These interventions included the:

- coordination of activities intended to curb IUU activity;
- sharing of resources, such as vessels;
- sharing of skills and technology;
- alignment of SADC laws and policies aimed at fighting IUU fishing and related activity with a particular focus on implementing port State measures in a harmonized way, and
- training of fishery inspectors on port State measures.

However, in order to undertake these interventions, SADC port States would require financial support.

60. Following the summary and analysis of the participants' responses to the FAO questionnaire on national practice concerning the implementation of port State measures, concern was expressed that many of the problems had already been identified at previous Workshops, in particular in a Workshop in Tanzania. It was pointed out that little had happened to rectify problems since that meeting. In order to facilitate regional cooperation and coordination to combat IUU fishing, the Workshop agreed that establishing a small coordinating unit of two or three persons should be contemplated.

FORMATION OF THE WORKING GROUPS AND THEIR REPORTS AND CONCLUSIONS

Multidisciplinary Working Groups

61. Three Working Groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. Each Working Group was invited to identify to consider a number of key issues and to draw conclusions from them develop responses to them. The composition of the Working Groups is in Appendix G.

62. The exercise for the Multidisciplinary Working Groups is in Appendix H and their reports are in Appendix I.

63. Following the presentations by the Working Groups, three commentaries were made by a panel of resource persons comprising Mr Lobach, Dr Douman and Dr Warwick Sauer, Director, Enviro-Fish Africa, Grahamstown, South Africa.

64. Mr Lobach complimented the groups for producing excellent outcomes in such a short period of time. He stated that it was significant to note that there was a large number of IUU fishing problems identified by the Working Groups that could be addressed by the measures set out in the FAO Model Scheme. He suggested that some consolidation and prioritization should be undertaken so that the most pressing of these problems could be dealt with as soon as possible. Mr Lobach stated that the problems identified were relevant to both national and foreign fishing vessels. He considered that the

solutions identified to address them could be grouped into three general areas of action: namely, coordination, harmonization and standardization. He made specific reference to the identified solution of establishing a MCS coordination centre for the region, indicating that this would be a very useful step for follow-up action. Mr Lobach underscored the notable endorsement by the Working Groups of port State measures as a relevant, less costly means of dealing with IUU fishing in comparison to alternative MCS tools.

65. Dr Doulman endorsed the views of Mr Lobach and thanked the Working Groups for their excellent work that demonstrated a sound appreciation of the complexities of IUU fishing and the need to implement effective port State measures. He noted that the Working Groups had highlighted similar problems and that the solutions identified to address them were realistic. He observed that there was no mention of the usefulness of language cards to facilitate comprehension by masters and operators of inspected vessels and suggested that this might be considered. He also emphasised that external assistance, while essential to States in dealing with the IUU fishing problems, was not a panacea for all problems. Dr Doulman encouraged countries to use their strengths to address IUU fishing problems particularly in light of the fact that port States had complete control over their ports. He mentioned it was necessary to ensure there was a political will to address IUU fishing problems including the implementation of port State measures. He also highlighted the important role of NPOAs–IUU and referred to the commendable action of countries in the South East Asian region on taking NPOAs–IUU to a higher level through regional harmonization. He suggested that this action could be worthy of consideration in the Southern and East Africa subregion. Dr Doulman endorsed the findings of the Working Groups on the need for effective exchange of information and networking to combat IUU fishing.

66. In his commentary, Dr Sauer endorsed comments of the preceding commentators and expressed his appreciation for the excellent work done by the Working Groups. He stated that it was refreshing to witness agreement among technical and operational officials on issues, problems and constraints relating to IUU fishing and a consensus on the solutions to address the problems and constraints that they presented. He underscored the need to harness political will and the challenges that would be faced in this regard. He pointed out that there were other fisheries programmes in the region all of which were competing for attention. He mentioned that the involvement of industry in solving IUU fishing problems was important. Dr Sauer noted the need for agreement on management language and pointed to the differences in interpretation by the Working Groups on terms such as “artisanal” and “subsistence” fishing, for examples. He stressed the findings of the Working Groups on the need to demarcate EEZ boundaries. He commented that the SADC Protocol on Fisheries was indeed a strength in the region to implement action against IUU fishing and could be used as an enabling instrument for communication and measures. In this regard, Dr Sauer indicated that the Working Groups had identified key issues relating to IUU fishing and the use of port State measures and that they might be explored at ministerial level (e.g. banning of transshipment at the high seas, the implementation of regional VMS, regional listing of IUU fishing vessels and a regional MCS support centre). He pointed out that the elaboration of NPOAs–IUU were also effective tools in combating IUU fishing but underscored the need for them to be implemented effectively if they were to have real effect. In conclusion, Dr Sauer mentioned that there was a general lack of information at the national and regional levels and that it would be necessary to find ways to more effectively disseminate information. At a practical level, he referred to the need for technical support for countries in the region including for training and infrastructure development to implement port State measures.

67. In discussion following the presentations, it was mentioned that prosecution in breach of management measures should not be overlooked. It was pointed out that Lacey-Act type provisions could greatly assist countries with the prosecution of foreign IUU fishers and if harmonized in a region could also be an excellent deterrent to IUU fishing.

Thematic Working Groups

68. The composition of the Thematic Working Groups is in Appendix J. They addressed:

- legal aspects of the FAO Model Scheme and the draft Agreement on Port State Measures;
- information requirements and systems to support the implementation of the FAO Model Scheme and the draft Agreement on Port State Measures, and
- inspection procedures, results of inspection and training in relation to the FAO Model Scheme and draft Agreement on Port State Measures.

Each Working Group was requested to recommend and prioritize areas and mechanisms for regional cooperation and identify areas and mechanism where further support might be required.

69. The reports of the Working Groups are in Appendix K.

70. In his comments on the reports of the Working Groups, Mr Flewwelling noted that there was a demonstration at the Workshop of a real desire and commitment to harmonize policies and legal instruments, information sharing, training and standards, and operational mechanisms for the implementation of the port State measures. He observed that Working Groups had moved from the general notion of regional fisheries cooperation to a more detailed level of cooperation. He noted that there was a growing interest in a regional MCS coordination group and centre concept. Mr Flewwelling saw this development and the general acceptance of the FAO Model Scheme and the draft Agreement as a further positive demonstration of regional solidarity.

71. Mr Flewwelling agreed that the movement towards regional cooperation and the adoption of mechanisms for the sharing of information among bilateral and regional parties had been an encouraging trend. He observed that a harmonized format for transshipment inspections would be highly beneficial but that it had not been identified in the Working Groups. Nevertheless it was a major step forward for countries to be focusing on the possibility of promoting harmonized inspection procedures and reports, information sharing and training. The use of regional standards, common formats and processes and training through a regional MCS centre was commendable.

72. With respect to the regional MCS concept, Mr Flewwelling reminded the Workshop that if it was to move forward a number of details would require attention, including the role and mandate for the centre to ensure it did not conflict with RFMOs; what activities and information should be shared, and how it should be shared; the structure of the centre; and the possibility of phased implementation (e.g., first drafting group to elaborate the concept, the appointment of an initial regional specialist coordinating advisory group and eventually the establishment of the MCS centre itself.). As part of this process, establishment and operating costs would need to be assessed and potential funding options identified.

73. Mr Kroese commented on the work of the three Groups. With respect to Working Group 1, he observed that the provisions of the FAO Model Scheme and the draft Agreement on Port State Measures appeared to meet the expectations of that Group. He mentioned that mechanisms for the implementation of these instruments still had to be decided and referred to the option of implementation as part of a SADC regional initiative. He pointed out that there was a need for the harmonization of domestic laws. However, consultations among countries for this purpose could take considerable time though agreement in principle to harmonize legislation could be more easily achieved.

74. With respect to Working Group 2, Mr Kroese noted that the FAO Model Scheme and the draft Agreement on Port State Measures seemed to address the majority of the requirements of countries in the region for successful implementation. He added that a regional approach with harmonized database and procedures was raised as an important component for the effective implementation of port State measures.

75. Turning to Working Group 3, Mr Kroese stated that standard operating procedures, documents and databases were viewed as important areas of regional cooperation for the successful implementation of port State measures. He pointed out that the Group also advocated the use of a regional MCS coordination centre to facilitate and support a harmonized approach to the

implementation of port State measures. Funding options and the mandate for such a centre should be further considered to determine the merit of this recommendation.

76. Following the presentations, the issue of an informal regional MCS network was raised and participants were referred to the proceedings of the Maputo Workshop for further information about this matter.

77. With respect to the dissemination of the FAO Model Scheme and the draft Agreement on Port State Measures, the Workshop was advised that both of these documents were available on the FAO Website.

78. In response to a request for clarification about the status of the FAO Model Scheme and the process to develop the binding Agreement on Port State Measures, it was explained that the FAO Model Scheme was a voluntary instrument. The draft Agreement, as developed by FAO and experts, together with a draft preamble, final clauses and annexes, based on the IPOA-IUU and the FAO Model Scheme, would be circulated to all FAO Members well in advance of the June 2008 Technical Consultation. At this meeting, Members will negotiate formally the terms of the Agreement. Prior to the Consultation, participants were encouraged to provide inputs to their respective national delegations that will be attending the Technical Consultation. The agreed text will then be referred to the March 2009 Session of COFI for endorsement and the FAO Governing Bodies for approval. It will then be opened for countries to become Parties to the Agreement and they will be bound by the Agreement when it enters into force. The papers for the Technical Consultation will be available on the FAO Website for downloading.

KEY ISSUES FOR FURTHER ACTION AND COOPERATION IN STRENGTHENING AND HARMONIZING PORT STATE MEASURES

79. The Workshop agreed on six key issues for further action and cooperation in strengthening and harmonizing port State measures. The issues were:

1. Continuing political will and support;
2. Harmonization and standardization;
3. Regional MCS centre;
4. Training and human capacity building;
5. Funding, and
6. Information sharing and activity coordination.

Issue 1: Continuing political will and support

- Develop and adopt NPOAs-IUU as soon as reasonably practicable;
- Develop a RPOA-IUU;
 - to incorporate the SADC Protocol for Fisheries as appropriate.
- Encourage membership of regional organizations.

Issue 2: Harmonization and standardization

- Policies and laws;
 - take into account international instruments, especially the draft Agreement on Port State Measures, and reviews by large marine ecosystem (LME) bodies and other relevant organizations.
- Port designation;
- Databases, including ensuring compatibility with RFMO (eg. FINSS)/regional databases;
- Port State measures (including documentation standardization, use of standardized language cards);
 - use FAO Model Scheme, other appropriate instruments as a basis;

- reinvigorate 2004 VMS Data-Sharing Arrangement, and
- immediate implementation.
- Continue developing the MCS Informal Network coordinated by Mozambique;
 - commence with distribution of catch data forms for immediate consideration.

Issue 3: Regional MCS centre

- Regional VMS collaboration and database;
 - revive tools developed under the SADC MCS Programme, including VMS and training.
- Regional MCS Centre;
 - general concept: to be resourced with two or three staff, establish a centralized database, coordinate and maintain a standardized database, develop a standardized training course for the region (including elements for a training programme described in the FAO Model Scheme).
 - develop the concept of a regional MCS Centre, taking note of previous initiatives in this regard as appropriate in order to avoid duplication. Participants from Mozambique expressed a willingness to explore the possibility of taking the lead in this initiative as soon as practicable, noting that terms of reference would be developed for a small coordinating group to be formed for the development of the concept.
- Sharing of MCS tools and technologies.

Issue 4: Training and human capacity building

- Species identification;
- Port State measures, taking into account:
 - annexes relating to training in the FAO Model Scheme (Annex D) and the draft Agreement on Port State Measures;
 - training courses and other materials developed under the SADC MCS Programme.
- Measures against IUU fishing;
 - continuous updating of information on conservation and management measures taken by relevant RFMOs.
- VMS interpretation, and
- Capacity development for legal expertise and skills.

Issue 5: Funding

- Donor and support funding;
- Public private partnerships;
 - review the need for closer cooperation with industry.
- Enhanced cost-effective management
 - national budget prioritization;
 - review of potential income from levies.

Issue 6: Information sharing and activity coordination

- Inter- and intra-government coordination;
 - timely coordination between SADC member port States;
 - coordination among national authorities, and
 - development of guidelines for inter-agency cooperation within government.
- Joint MCS patrols;
 - encourage cost-effective exercises, and
 - cooperate towards the development of implementation mechanisms.
- Regional standardization of training for fishery control officers;

- Regional MCS Centre Networking/Web site;
 - regional MCS Centre database, and
 - links to RFMO–IUU fishing vessel lists
- Publicize conservation and management measures adopted by port States (e.g. through meetings with ships agents, Web sites and other means).

CLOSURE OF THE WORKSHOP

80. The Workshop Coordinator, Ms Swan, commended the participants and resource persons for the exceptionally high standard of their contributions and for their commitment in combating IUU fishing by developing a range of potential means for regional cooperation in the implementation and harmonization of port State measures. In this regard, she noted the key roles that might be played by relevant RFMOs and SADC. She thanked the Governments of Norway, Sweden and the United Kingdom and the FAO Regular Programme for supporting the Workshop and expressed gratitude to the Workshop Administration for contributing to the Workshop in such an effective manner. The cooperation by Marine and Coastal Management, South Africa, was acknowledged gratefully for arranging the visit to the patrol vessel. In conclusion she reiterated the aim expressed by many participants that the outcomes of the Workshop would be carried forward at national levels and through appropriate mechanisms in the region to promote the strengthening and harmonization of port State measures to combat IUU fishing.

81. On behalf of the participants, Mr Manuel Vicente Fole Castiano, Chief of Department, National Directorate of Fisheries Administration, Ministry of Fisheries, Maputo, Mozambique, thanked FAO for taking the initiative to organize the Workshop. He also thanked the resource persons and the donors. Mr Castiano noted that the Workshop had provided an excellent introduction to the FAO Model Scheme and the draft Agreement on Port State Measures. He expressed the hope that participants would work towards implementing the instruments after they returned to their respective countries and that as many countries as possible would participate in the June 2008 FAO Technical Consultation in Rome to finalize the draft Agreement. Mr Castiano also referred to the need for effective regional cooperation if port State measures were to be used to combat IUU fishing in the SADC area. In this regard, he recognized the view that had been expressed in the Workshop that cooperation within the SADC framework would be a highly effective means for implementing port State measures.

82. The Chair, Dr Hamukuaya, expressed his deep appreciation to all participants for their lively participation in the Workshop. He also commended resource persons for their excellent presentations and guidance during the course of the Workshop. In his view the Workshop had achieved its objectives and therefore he applauded FAO for organizing it. He stated that based on what he had learnt this week, he was convinced that the region could do more with the existing resources at its disposal to effectively adopt and implement port State measures based on the FAO Model Scheme. Dr Hamukuaya reminded participants as senior government officials they had important roles to play in influencing their respective governments to take appropriate actions at national level and also networking and coordinating at regional level. In particular, the provisions and forms already available in the FAO Model Scheme could be easily adopted and implemented. The Chair reiterated that closer collaboration and timely exchange of information between countries and with RFMOs were important to control IUU fishing and related activities in the region. Looking ahead, Dr Hamukuaya reminded participants of the very important role to be played by countries in developing and implementing instruments that would effectively combat IUU fishing such as the binding Agreement on Port State Measures, and in ensuring that the results of this Workshop moved forward on a regional basis. With these few concluding remarks, the Chairperson officially declared the closure of the Workshop and wished participants and resource persons a safe trip to their respective destinations.

83. The Workshop closed at 17.00 hours on 31 January 2008.

Agenda

Opening of the Workshop

Background and framework

Global and regional issues relating to IUU fishing and port State measures and the 2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing

2007 draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the implementation of regional and national port State measures

Adoption and implementation of port State measures by RFMOs and the implementation of measures in the Southern and East Africa Subregion

Operational and information requirements for effective port State measures

Industry perspectives on port State measures and national responses to the questionnaires

Formation of the Working Groups and their reports and conclusions

Key issues for further action and cooperation in strengthening and harmonizing port State measures

Closure of the Workshop

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APPENDIX C**Documentation presented**

Agenda

Prospectus

FAO. 1995. Code of Conduct for Responsible Fisheries. FAO. Rome.

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Opening statement
by
Ichiro Nomura
Assistant Director-General
Fisheries and Aquaculture Department
FAO
Rome, Italy

Ladies and Gentlemen:

It is my pleasure to extend a warm welcome to you on the occasion of the opening of the FAO Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. This is the fourth in a series of regional workshops on port State measures that the Food and Agriculture Organization of the United Nations has been involved in convening, and we are indeed honoured to have the opportunity of contributing to improved understanding in the Southern Africa region, and of providing a forum to consider options for cooperative action.

It was only six years ago that the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU) was adopted, and two years ago that the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing was endorsed by the FAO Committee on Fisheries (COFI). The Model Scheme was developed as a result of consultations convened by FAO between 2002 and 2004, and COFI urged all FAO Members to give priority to its operationalization.

Since then, the international community has intensified its resolve to strengthen port State measures even further. Over the past two years there have been repeated calls in international fora for a binding international instrument on port State measures, to be developed in FAO and based on the IPOA–IUU and the FAO Model Scheme. Earlier last year, the Twenty-seventh Session of COFI established a process that is likely to result in the development of such an instrument. To this end, an Expert Consultation to Draft a Legally-binding Instrument on Port State Measures was held in Washington D.C., USA, from 4 to 8 September 2007, and a Technical Consultation to review the draft Agreement will take place in June, 2008. The next Session of COFI, in 2009, will review the outcome.

We are now on the threshold of a new era in addressing IUU fishing through the key compliance tool of port State measures. They are widely regarded to be one of the most cost-effective means of combating IUU fishing, and their value in allowing swift and certain action to be taken is well understood. They embrace a range of requirements, including vessel reporting prior to entry into port, in-port inspections, complementary actions by flag States, reports on inspections, information exchange and human capacity development. Actions taken as a result of port State measures target the profitability of the IUU fisher, gained through what is now widely recognized as environmental crime. Actions can include the denial of port access, landing, transshipment, trade, export and resupply.

In addition, port State measures are fundamental to the effective use of a wide range of other tools employed at national and regional levels to combat IUU fishing. These tools include IUU and authorized vessel lists, vessel monitoring systems and the implementation of internationally agreed market-related measures.

As a result, a growing number of regional fishery bodies (RFBs), mindful of the value and the need of harmonizing and coordinating measures against IUU fishing, are developing, or have

adopted, regional schemes and are undertaking human capacity development programmes. Such regional cooperation and coordination will assist greatly in reinforcing national efforts and deterring the operation of “ports of non-compliance”, where countries are unable or unwilling to apply effective port State measures.

In response to mounting international attention to the essential role of port State measures in combating IUU fishing, FAO has mounted a series of regional workshops to develop national capacity and promote regional coordination. As a result of these initiatives it is expected that countries will be better placed to strengthen and harmonize their port State measures. In addition, we anticipate that countries will be able to meet the requirements of relevant RFBs and implement the necessary IPOA–IUU tools and the FAO Model Scheme.

FAO acknowledges with gratitude the many organizations and governments that support this important series of workshops and those organizations, that partner with FAO in their delivery. The considerable scope of interest and support received to date reflects a broad-based appreciation of the potential impact of strengthened and harmonized port State measures in combating IUU fishing activities.

Special recognition and gratitude is extended to the donors that are supporting this Workshop. In FAO, extra budgetary support has been provided by the Governments of Norway and Sweden. I would also like to mention the support provided by the UK Department for International Development (DFID).

This week, four days will be devoted to the workshop where participants from eight countries in the Southern Africa region will have the opportunity to interact with international and regional experts during discussion periods. The participants will then form working groups to consider the development of regional standards for port State measures based on the FAO Model Scheme, and, based on the circumstances in the region and use of complementary compliance tools, to recommend measures that can best implement port State controls in the Southern Africa region.

The Workshop will also afford a valuable opportunity to discuss issues that may eventually be considered in the context of a binding international instrument on port State measures. I am anticipating outcomes of a very high standard.

Bringing this Workshop to fruition has been a true team effort. I wish to extend my thanks to the DFID team, particularly Ms Sandy Davies and Mr Per Erik Bergh and Dr Warren Potts, for their valuable work, in partnership with FAO staff, on convening the workshop with a view to achieving enduring outcomes for the benefit of all.

I wish you all a full and very productive Workshop on Port State Measures to Combat IUU Fishing.

Thank you very much for your attention.

Opening statement
by
Tim Bostock
Coordinator
Fisheries Support Programme
UK Department for International Development
London, United Kingdom

I am pleased to be here at this regional Workshop in Cape Town on port State measures.

The United Kingdom is funding this event as part of a southern Africa regional effort to tackle IUU fishing. Just last week, we held meetings with the SADC Secretariat and Minister of Fisheries in Windhoek to help with arrangements for a Ministerial Conference on IUU fishing that will take place later this year in Namibia under the auspices of SADC. You should shortly be hearing officially from SADC about this important event. I hope and expect the findings from this Workshop will feed into the declaration and priority actions emerging from the Ministerial Conference.

In the United Kingdom, the Department for International Development and the Department for Environment, Food and Rural Affairs are jointly running a Fisheries Support Programme comprising of three areas of international fisheries policy: IUU fishing, fisheries access agreements, and fisheries management and governance.

We have a particularly strong commitment on IUU fishing. The United Kingdom chaired and supported the Ministerial High Seas Task Force for its two years of operations. We commissioned the first major empirically-based studies on the impacts of IUU fishing on developing countries and ecosystems. These studies underscored the value of the loss due to IUU fishing to sub-Saharan African economies – around US\$1 billion per year.

Since the Task Force completed its operations, we have been facilitating and directly supporting a range of follow up activities, for example:

- enhanced MCS Network;
- developing country support (southern Africa region and Sierra Leone);
- global Record of fishing vessels with FAO;
- global IUU fishing Monitoring Network;
- RFMO Panel on best practice, and
- encouraging open consultation and debate (e.g. regular Chatham House meetings and website).

More recently we have been heavily engaged with the European Community in supporting and developing new IUU fishing regulations. These have significant implications for fisheries in Africa and I would urge all of you to take a look at the draft on the Europa website. We have been consulting with non-governmental organizations, industry and other government departments to help ensure these new regulations satisfy a broad range of needs and concerns, and that they are proportionate and can be complied with as little fuss as possible.

The draft regulations are innovative. In part, they respond to growing industry and civil society concerns about IUU fishing. Mainly in response to pressure from NGOs, major processors and retailers have sought to manage and protect corporate reputations by

developing standards to ensure that IUU-caught products are excluded from supply chains. The new European Union regulations will, to some extent, underpin these efforts.

In short, the regulations will rely on risk assessment and market mechanisms. They focus on certification by the flag State of all imports from outside the European Union. They also address sanctions on all European Union nationals engaged in IUU fishing activities, including in processing and retail. Although certification is particularly intended to target the bane of IUU fishing associated with flag of non-compliance States, we believe there are risks of creating problems for compliant States, especially developing country exporters. Risks might include the creation of technical barriers to trade, similar to the issues with sanitary and phytosanitary measures.

The United Kingdom is actively raising these and other concerns directly with the European Commission to ensure they are dealt with effectively before the regulations are passed by the European Council.

In closing, one thing I would like to say is that IUU fishing and natural resource crime more generally is one unfortunate outcome of weak governance – we have plenty of evidence for this. Good governance, however, is a function of the State working closely with legitimate industry and civil society. In the United Kingdom and many parts of the European Union, our industry and markets are preoccupied about business erosion due to criminal activity. They are also concerned about the complicit behaviour of some States that continues to promote IUU fishing and related activities. While new approaches to port State measures are to be applauded, to be effective they need, at least, to ensure trusting partnerships exist between governments and markets.

Opening statement
by
Monde Mayekiso
Deputy Director General
Marine and Coastal Management
Cape Town, South Africa

Chairperson, Representatives of the Food and Agriculture Organization of the United Nations, Governments, Regional Fisheries Management Organizations, the UK Department of International Development, other organizations, distinguished guests, ladies and gentlemen, welcome to South Africa and in particular to Cape Town.

I am delighted to be here this morning to provide some opening remarks at such an important Workshop. Ladies and Gentlemen, we have seen the signs that our global fish stocks are under tremendous pressure. Not only have we seen environmental changes that impacted on these fish stocks and contributed to their decline, but we have also seen an increase in illegal, unreported and unregulated (IUU) fishing. This morning I was reading about the collapse of various stocks in West Africa and the development of human trafficking for displaced fishers. I must also mention that South Africa has also felt the full effects of IUU fishing in the Southern Ocean.

This situation, Ladies and Gentlemen, is what makes this Workshop very opportune. As individual countries we will never be able to combat IUU fishing alone, but collectively we can certainly succeed in dealing with it. FAO has over the years played a significant role in addressing this matter.

Port State measures in this regard, remain of crucial importance and States need to take the implementation of these measures seriously. If we can implement Port State measures at a country level, we can already make a significant difference. Ladies and Gentlemen, you have an elaborate programme over the next few days. Let us capitalize on the lessons learnt in the respective countries and regions so that collectively we can move forward to strengthen port State measures both at the national and regional levels.

I wish you well in your deliberations and I sincerely wish that the outcome of this Workshop will provide all of us with new approaches on how to tackle the challenges of IUU fishing. In conclusion, Ladies and Gentlemen, I hope you find some time to explore our beautiful city and country and experience what it has to offer for tourism.

I thank you very much for your attention.

Composition of the Working Groups

WORKING GROUP 1	WORKING GROUP 2	WORKING GROUP 3
LEADER: Franz Tsheehama (Namibia)	LEADER: Janet Uronu (Tanzania)	LEADER: Theresa Frantz (South Africa)
RAPPORTEUR: Johan De Goede (South Africa)	RAPPORTEUR: Munesh Munboh (Mauritius)	RAPPORTEUR: Peter Amutenya (Namibia)
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Lawrence Madadona Jack (South Africa)	Keith Govender (South Africa)	Horst Kleischmidt (South Africa)
Devanand Norungee (Mauritius)		
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Hashali Hamukuaya	Natasha Slicer	Andre Share
Marcel Kroese	Warrick Sauer	Blaise Kuemlangan
Pierre Malan	Shaheen Moolla	Bjorn Fagerholm
Svein Munkejord		

Multidisciplinary Working Group exercise**Each Working Group will identify the following:**

- a. The main IUU fishing problems in region that can be addressed by port State measures (distinguish between issues on foreign and national vessels and current and potential problems)
- b. Strengths and constraints in implementing the FAO Model Scheme
- c. Solutions for overcoming constraints in implementing the FAO Model Scheme
- d. Steps that national fisheries administrations might take to develop port State measures that implement the IPOA-IUU and the FAO Model Scheme
- e. Steps for strengthening linkages between port State measures and key compliance tools (e.g., trade, traceability VMS and information networks)

Based on conclusions drawn from the above:

- f. Recommend and prioritise areas for regional cooperation in implementing port State measures
- g. Identify areas where further support may be required to implement port State measures and indicate the types of support required

Reports of the Working Groups on multidisciplinary issues relating to port State measures

WORKING GROUP 1

a) Main IUU fishing problems in region that can be addressed by port State measures:

- Fishing without a licence: foreign and national problem. Potentially it may be difficult to determine if a vessels as an authorization to fish in the area.
- Failing to maintain accurate records of catch and catch-related data: foreign and national problem. Potentially there may be inadequate training on species identification of catch data.
- Fishing in a closed area and closed season without a quota and fishing in a closed area and closed season with a quota: foreign and national problem but more of a national problem. Potentially VMS not functioning properly.
- Targeting fish stocks that are prohibited: foreign and national problem. Potentially insufficient information such as species on board of vessel, difficulties for foreign vessel in providing lists that are accurate, understandable and that there are well trained compliance officers.
- Using prohibited fishing gear: foreign and national problem. Potentially there is the possible destruction of resources (e.g. mid-water trawls are prohibited in Angola).
- Falsifying or concealing the markings, identity or registration of a fishing vessel: foreign and national problem. Potentially insufficient training of inspectors.
- Concealing tampering with or disposing of evidence relating to an investigation: foreign and national problem. Potentially difficulties in prosecution-lead to a difficult investigation
- Conducting multiple violations that together constitute a serious disregard of relevant conservation and management measures: foreign and national problem. Potentially toleration by port States and ineffective communication networks.
- Failure to comply with vessels VMS requirements: foreign and national problem. Potentially difficulty to establish effective control and negative impacts of resources.
- Taking all landing undersized fish in contravention with relevant conservation and management measures: foreign and national problem. Potentially non sustainable harvesting of resources may lead to stock collapses.
- Transshipment without authorization: foreign and national problem. Potentially loss of revenue, targeting of prohibited species and inaccurate catch reports.

b) Strengths and constraints in implementing the FAO Model Scheme

- Fishing without a licence: strengths – conservation measures, law, permit conditions, personnel and equipment (MCS); constraints – financial constraints, inadequate training, inadequate legal knowledge, extension of fishing areas, inadequate compliance vessels and number of harbours.
- Failing to maintain accurate records of catch and catch-related data: strengths – VMS verification, law, permit conditions; constraints – difficulties to determine country of origin, communication problems, lack of understanding of documents.
- Fishing in a closed area and closed season without a quota and fishing in a closed area and closed season with a quota: strengths – VMS verification, vessels patrols, conservation measures, law, permit conditions; constraints – extension of fishing areas, inadequate number of patrol vessels and human resources.
- Targeting fish stocks that are prohibited: strengths – port inspection, patrol vessels, clearly defined species lists; constraints – high field costs leading to limited patrols, inadequate experience in species identification.

- Using prohibited fishing gear: strengths – port inspection, patrol vessels, clearly defined species lists; constraints – high field costs leading to limited patrols, inadequate experience in species identification.
- Falsifying or concealing the markings, identity or registration of a fishing vessel: strengths – port inspection, patrol vessels, law, permit conditions, cooperation between States; constraints – delays due to determining the real identity of the vessel, powers of the port State limited only to its own EEZ, difficulties in apprehending IUU fishers once they exist the area of jurisdiction.
- Concealing tampering with or disposing of evidence relating to an investigation: strengths – port inspection, patrol vessels, law, permit conditions, registered vessel lists if available; constraints – legal limitation.
- Conducting multiple violations that together constitute a serious disregard of relevant conservation and management measures: strengths – communication, VMS availability, SADC Protocol on information sharing; constraints – lack of provisions in domestic law to enforce international conservation and management measures.
- Failure to comply with vessels VMS requirements: strengths – law, permit conditions; constraints – difficulties in enforcement, difficulties in confirmation data transmission (from the perspective of fishers), tampering with devices at sea.
- Taking all landing undersized fish in contravention with relevant conservation and management measures: strengths – law, permit conditions, port inspections, patrol vessels; constraints – extension of fishing areas, patrolling difficulties, inadequate numbers of patrol vessels, financial constraints.
- Transshipment without authorization: strengths – law, permit conditions, port inspection, patrol vessels; constraints – extension of fishing areas, patrolling difficulties, inadequate numbers of patrol vessels, financial constraints.

c) Solutions for overcoming constraints in implementing the FAO Model Scheme

- Fishing without a licence: require letter in language of State's choice that is proof of the authorization to operate in the area, cooperation among countries and with industry, stakeholder participation, harmonization of legislation, adequate financial allocation to fight IUU fishing effectively, further political commitment to fight IUU fishing.
- Failing to maintain accurate records of catch and catch-related data: implement local and international species identification, training for local compliance officers, maintain accurate catch data recording, adequate and well-trained observers.
- Fishing in a closed area and closed season without a quota and fishing in a closed area and closed season with a quota: effective communication between VMS operations room and local compliance authorities, effective patrol of fishing areas, regional cooperation in information sharing, port checks of permits.
- Targeting fish stocks that are prohibited: adequate training on prohibited species.
- Using prohibited fishing gear: revoke licence.
- Falsifying or concealing the markings, identity or registration of a fishing vessel: enforce negative listings of vessels, revoke licence, confiscate vessel and gear.
- Concealing tampering with or disposing of evidence relating to an investigation: enforce negative listings of vessels, revoke licence.
- Conducting multiple violations that together constitute a serious disregard of relevant conservation and management measures: enforce negative listings of vessels, revoke licence, confiscate vessel and use it for MCS purposes.
- Failure to comply with vessels VMS requirements: information available on CCAMLR website.
- Taking all landing undersized fish in contravention with relevant conservation and management measures: enforce negative listings of vessels, revoke licence, confiscate vessel and use it for MCS purposes.

- Transshipment without authorization: revoke licence, permit conditions, no permits etc, revoke licence, confiscate catch, negative listing.

d) Steps that national fisheries administrations might take to develop port State measures that implement the IPOA–IUU and the FAO Model Scheme

- NPOA–IUU and its effective implementation;
- Harmonization of legislation, and
- Standardization of communication systems and the development of databases.

e) Steps for strengthening linkages between port State measures and key compliance tools

- Political commitment;
- IPOA–IUU, and
- Harmonization of legislation and implementation of conservation measures.

f) Recommend and prioritize areas for regional cooperation in implementing port State measures

- Training;
- Sharing of data;
- Joint surveillance and monitoring vessel patrols at sea;
- Real time data access to IUU fishing vessel lists;
- Harmonization of legislation;
- Implementation of port State measures and RPOA–IUU, and
- Enhanced communication links.

g) Further support to implement port State measures and types of support

- Standardization of documents i.e., licenses, logbooks etc;
- Adequate training at regional level e.g. identification of regional centre and the identification of prohibited species and species in general, and
- Harmonization of legislation.

WORKING GROUP 2

a) Main IUU fishing problems in region that can be addressed by port State measures:

Foreign vessels: existing problems

- Under-reporting of catches;
- Unauthorized fishing;
- Use of illegal gears;
- Misinterpretation of VMS information and the non availability of VMS ;
- Encroaching into EEZs;
- Taking unlicensed species;
- Targeting non-quota species;
- Detection of unauthorized vessels;
- Implementation of the ban on shark fins;
- Ban on transshipment on the high seas, and
- Falsification of vessel information.

Foreign vessels: potential problems

- Marking and identification of fishing vessels;
- Denial of port access to supply vessels and carriers;
- No gear on board;
- VMS for vessels fishing in the high seas;
- VMS not being a mandatory requirement;
- Analysis of VMS data, and
- Supply and reefer vessels will supply provisions if IUU fishing vessels are denied access.

National: existing problems

- IUU fishing apparent in all fisheries: Commercial, industrial and artisanal;
- Illegal fishing;
- Use of illegal gear;
- Violation of fishing conditions (logbook, licence, monthly reports, trip reporting, VMS reporting failures);
- Unlicensed fishing (poaching by national vessels);
- National vessels supporting foreign vessels to commit IUU fishing, and
- Transshipment by local vessels to foreign vessels.

National: potential problems

- National lack of information – campaign required.

b) Strengths and constraints in implementing the FAO Model Scheme**Strengths**

- Port States are aware of port State measures;
- Gaps in legislation;
- Most States are parties to international instruments and RFMOs, and
- VMS implemented in some States.

Constraints

- Human capacity;
- Financial resources;
- Equipment;
- Flag States not implementing their responsibilities;
- Exchange of information on licensed vessels;
- Harmonization of legislation;
- Communications with foreign vessels;
- Lack of historical information on fishing vessels;
- High seas transshipment – supply vessels and reefers, and
- Southern Indian Ocean Fisheries Agreement (SIOFA) to become operational.

c) Solutions for overcoming constraints in implementing the FAO Model Scheme

- Recruit more inspectors and additional training;
- Set aside more funds for port State measures in national budget;
- Change of political will towards port State measures;
- Harmonization of legislation and enforcement procedures;
- Recognition of duties and risks to inspectors and proper remuneration;

- Banning of high seas transshipment;
- Demarcation of EEZ boundaries between States;
- Cooperation and exchange of information – inter-and intra-governmental information, and
- Sensitization of fishing vessel agents on IUU fishing matters.

d) Steps that national fisheries administrations might take to develop port State measures that implement the IPOA–IUU and the FAO Model Scheme

- Sensitization among national institutions (e.g. customs, port authorities, immigration, health, maritime transport, Coastguard, defence);
- Develop NPOA-IUU and implement it;
- Amend national legislation for implementation of the NPOA-IUU and RFMO resolutions, and
- Countries should be encouraged to join relevant RFMOs.

e) Steps for strengthening linkages between port State measures and key compliance tools

(i) Identify lists of compliance requirements for different RFMOs and those required by the national legislation:

- Vessels are licensed;
- Accurate records of catch are maintained
- Fishing in permitted areas;
- No use prohibited gear;
- No falsification of vessel markings, and
- Compliance with VMS regulations.

(ii) Develop mechanisms for information exchange among States.

f) Recommend and prioritize areas for regional cooperation in implementing port State measures

- Development of capacity (human, financial, equipment) for implementing port State measures;
- Information exchange;
- Harmonisation of legislation to implement the SADC Protocol on Fisheries and port State measures;
- Joint MCS patrols;
- Regional VMS, and
- Regional MCS Network.

g) Further support to implement port State measures and types of support

- Develop enabling national legislation: external assistance required;
- Training MCS, prosecution and judiciary personnel;
- IT infrastructure and support and database management, processing and use of data;
- Sensitization of industry, including vessel owners, operators, agents and captains, and
- Exchange of information, experience, networking.

WORKING GROUP 3

a) Main IUU fishing problems in region that can be addressed by port State measures:

- unlicensed fishing - national and foreign concern (Flag State is responsible for licensing, but sections 2.4 Advance notification; 3 Inspections; 4, 5, and 6 Actions from the port State measures apply)
- fishing in restricted areas-national and foreign concern in EEZ (note special areas on the high seas for SEAFO and CCAMLR) (Section 2.4 and Appendix A; Section 3 inspections 4, 5, and 6 Actions from the port State measures apply)
- falsification of documents - national and foreign concern (logbooks, license applications, etc.) (Section 3 Inspections, Section 2.8 and Appendices B and C; 4, 5, and 6 Actions from the port State measures apply)
- misreporting - national and foreign concern (Section 2.4 and Appendix A; Section 3 Inspections, Section 2.8 and Appendices B and C; 4, 5, and 6 Actions from the Port State Measures apply)
- tampering with VMS - national and foreign concern (Section 2.4 and Appendix A; Section 3 Inspections, Section 2.8 and Appendices B and C; 4, 5, and 6 Actions from the port State measures apply)
- lack of national coordination among agencies - national and foreign concern (Section 2.2; 7, 8 and Appendix E from the port State measures apply)
- poor vessel identification (false, none, covered, etc.)- national (especially for artisanal/subsistence fleets in Tanzania and Mozambique) and mostly foreign concern. (Section 3 Inspections, Section 2.8 and appendix B and C, Sections 4 and 5 Actions and Section 6)
- unauthorized transhipment - mostly foreign concern (Sections 2.3, 2.5, 2.6, 2.7, 2.8 Appendix B and C, and sections 3. 4. 5 and 6)
- dumping and discarding fish at sea - national and foreign concern (port Control measures will not assist here as much as observers, patrol vessels and other vessels reporting to the port State)
- non-reporting - mostly foreign concern (VMS entry and exits from areas can be crossed checked against inspections data)

b) Strengths and constraints in implementing the FAO Model Scheme and c) Solutions for overcoming constraints in implementing the FAO Model Scheme

Strengths:

- Designated ports;
- Assets (vessels, VMS, etc – to varying degrees);
- PSM Model Scheme setting minimum standards;
- Current human resources;
- National legislation;
- IPOA–IUU, FAO Code of Conduct for Responsible Fisheries and International Legal Instruments by all parties, and
- SADC Protocol on Fisheries.

Constraints and solutions:

- Language barrier (Solution: interpreters Section 3.8);
- Capacity insufficient (Solution: recruit additional staff);
- Lack of training and skills (to varying degrees) (Solution: provide training, standardized in the region);
- Inadequate information exchange and systems (Solution: FINSS (National/Regional database) Networking (MCS);

- Lack of cooperation (national and regional) (Solution: MCS Coordination (nationally and regionally));
- Lack of NPOA–IUU in the region (Solution: political will, preparation, approval and implementation);
- Insufficient funding (Solution: internal budget planning priorities, cost effective management, UNSFA funding, donor funding), and
- Lack of implementation of SADC Protocol (Solution: effective mechanism for coordination).

d) Steps that national fisheries administrations might take to develop port State measures that implement the IPOA–IUU and the FAO Model Scheme

- Develop and implement NPOA–IUU;
- Review and update and harmonization of legislation;
- Cooperation in setting up regional MCS centre;
- Developing integrated MCS systems;
- Setting up national VMS;
- Implement standardized regional training nationally (ongoing);
- Standard operating procedures and documentation (applications, landing docs, inter-agency guidelines, etc.);
- Inter-agency cooperation, and
- Integrated national database.

e) Steps for strengthening linkages between port State measures and key compliance tools

- Integrated database will assist in traceability (including VMS data, catch, licensing, reporting, registers, trade, at sea inspections, port inspections, etc.);
- Regional MCS centre, and
- Regional networking.

f) Recommend and prioritize areas for regional cooperation in implementing port State measures

- Setting up regional MCS centre;
- Setting up regional/centralized VMS centre;
- Implement standardized training in the region (ongoing), and
- Standard operating procedures and documentation (applications, landing documents, inter-agency guidelines, etc.).

g) Further support to implement port State measures and types of support

- Funding;
- Technical assistance;
- Follow up (accountability by SADC coastal States);
- Regional centre and operations (MCS);
- Networking, and
- Public private partnerships with industry, NGOs, various government agencies nationally, etc.

Composition of the thematic Working Groups

WORKING GROUP 1	WORKING GROUP 2	WORKING GROUP 3
LEGAL ASPECTS	INFORMATION, REQUIREMENTS AND SYSTEMS	INSPECTION PROCEDURES, RESULTS OF INSPECTION AND TRAINING
LEADER: Franz Tsheehama (Namibia)	LEADER: Janet Uronu (Tanzania)	LEADER: Theresa Frantz (South Africa)
RAPPORTEUR: Johan De Goede (South Africa)	RAPPORTEUR: Munesh Munboh (Mauritius)	RAPPORTEUR: Peter Amutenya (Namibia)
Pascoal Carlos (Angola)	Cheslyn Lienbenberg (South Africa)	Fetra Ranriharison (Madagascar)
Devanand Norungee (Mauritius)	Estela Mause (Mozambique)	Manuel Castiano (Mozambique)
Rosita Abdula (Mozambique)	Cassamo Junior (Mozambique)	Lucinda Mangue (Mozambique)
Leyeye Nkosi (Angola)	Peter Schivute (Namibia)	Hosea Mbilinyi (Tanzania)
Craig Smith (South Africa)	Dino Govender (South Africa)	Johan Augustyn (South Africa)
Lawrence Madadona Jack (South Africa)	Keith Govender (South Africa)	Horst Kleischmidt (South Africa)
Devanand Norungee (Mauritius)		
RESOURCE PERSONS		
Terje Lobach	Per Erik Bergh	Peter Flewwelling
Hashali Hamukuaya	Natasha Slicer	Andre Share
Marcel Kroese	Warrick Sauer	Blaise Kuemlangan
Pierre Malan	Shaheen Moolla	Bjorn Fagerholm
Svein Munkejord		

APPENDIX K

**Reports of the Working Groups on certain thematic aspects relating to the FAO Model Scheme
and the draft Agreement on port State measures**

WORKING GROUP 1: Legal aspects**Draft Agreement on Port State Measures**

- Article 1 – accepted as is.
- The Working Group is in agreement that the objective of the Agreement as stipulated in Article 2 will be adopted, comfortably.
- Confirm that Article 3 referring to “Application” in accepted in principle (it is already in line with the principles expressed in the SADC Protocol on Fisheries). Note: Adjustments by member country may be required, e.g. verifying harmony with legislation in general, domestic and international.
- Article 4 – accepted as is.
- Article 5 – accepted as is.
- Article 6 – accepted as is.
- Article 7 – accepted as is.
- Article 8 – accepted as is.
- Article 9 – accepted as is.
- Article 10 – accepted as is.
- Article 11 – accepted as is.
- Article 12 – accepted as is.
- Article 13 – accepted as is.
- Article 14 – accepted as is.
- Article 15 – accepted as is.
- Article 16 – accepted as is.
- Article 17 – accepted as is.
- Article 18 – accepted as is.
- Article 19 – accepted as is, after intense discussion regarding entitlement to compensation.
- Article 20 – accepted as is.
- Article 21 – accepted as is.
- Article 22 – accepted as is.
- Article 23 – accepted as is.
- Article 24 – accepted as is.
- Article 25 – accepted as is.

Recommend and prioritize areas and mechanism for regional cooperation

- The Working Group agreed with the FAO Model Scheme and urged that it should be implemented as soon as possible

Identify areas and mechanism where further support may be required

- Due to the total costs involved, financial support and equipment, personnel and other resource constraints may create difficulties in implementation;
- Coordination among countries, and
- Harmonization of domestic laws.

WORKING GROUP 2: Information requirements and systems

Minimum information required for pre-screening of vessels

Collect minimum vessel requirements as per Appendix A of the FAO Model Scheme.

- Vessel identification (Add information on previous owners of the vessel for past five years);
- Purpose of access to port;
- Fishing authorization;
- Trip information (Add information on historical fishing activity), and
- Species information (Add signature of the applicant to all of the above information).

Vessel information

At a national level: national database

At a regional level: highly desirable to have a regional database that records the operational history of vessels that can be accessed by all regional port officials as per Appendix E of the FAO Model Scheme. Records should include when the vessel last applied to enter a SADC port and the nature of that application.

Internet access is required to check:

- RFMO–IUU fishing vessel lists;
- RFMO authorized lists;
- Bilateral agreements in order to access information, and
- External registries such as Lloyds, Equasis.

Regional subscription to online databases such as Lloyds Sea Web should be contemplated.

A decision matrix (as per Mr Kroese's presentation) would be a useful tool to ensure consistent port access approval process.

Implement a communication programme to inform agents, foreign vessels etc of national port requirements.

Inspection of vessels

- Standardized inspection forms;
- Inspection forms translated;
- Language cards;
- Reports must be provided in standard format;
- Reports must include information as per Appendix C of the Model Scheme:
 - Inspection references
 - Vessel identification
 - Fishing authorization
 - Trip information
 - Result of the inspection on discharge
 - Quantities retained on board the vessel
 - Results of gear inspection
 - Conclusions
- The same database should be used for applications and inspections.

Report must be submitted to Flag State, relevant coastal States and RFMOs as per paragraphs 6, 7 and 8 and Appendix E of the FAO Model Scheme. A template for reporting should be developed.

Areas and mechanisms for regional cooperation

- Consideration of a regional online database for vessel/fishing information where this can be summarized or shared;
- Protocol for sharing information between SADC countries;
- Development of a regional website to provide contact details for port officials, MCS personnel etc, and
- Stop Illegal Fishing Web site could be further developed and used to promote regional cooperation.

Areas and mechanisms where further support may be required

- IT infrastructure;
- Training of personnel, and
- IOTC FINNS software.

WORKING GROUP 3: Inspection procedures, results of inspection and training

The task of the Group was to consider aspects of:

- a. FAO Model Scheme – Section 3, Appendix B, C and D
- b. Draft Agreement on Port State Measures – Part 4, Training – Article 16, Article 22

Recommend and prioritize areas and mechanisms for regional cooperation

- Inspection - Standard operating procedures and documentation for conducting inspections, i.e. according to Appendix B – Port State inspection procedures of foreign fishing vessels
 - Establishment of informal SADC MCS Network (to facilitate e-mail exchanges);
 - Mozambique should continue to lead the establishment of the network, and
 - Development of a standard form for inspections according to Appendix B through the Regional MCS Centre, in the meantime the Network may proceed to develop the form.
- Results of inspection – Standard documentation for reporting on inspections i.e. according to Appendix C – Results of Port Inspections
 - Establishment of informal SADC MCS Network (to facilitate e-mail exchanges);
 - Develop a regional database to capture results of inspections (e.g. FINSS);
 - Information sharing on results of inspections, particularly for IUU vessels (Network and database) among the SADC States and RFMOs, and
 - Information sharing with the flag State, if the Flag State is not a SADC Coastal State
- Training
 - Regional MCS Centre to coordinate;
 - Develop standardized training initiatives for the region;
 - Develop a training course in accordance with Appendix D;
 - Nationally – local institutions to facilitate the implementation of the training course (e.g. Technikon, Consultancy, bid and tender process, etc.);
 - Training should be ongoing nationally, and
 - Monitoring to maintain regional standards (Regional MCS Centre)

Identify areas and mechanisms where further support may be required

- Equipment e.g. VMS operational centre (Regional MCS Centre);
- Inspections standardized regionally – process, documentation, reporting, database, etc.;
- Training – standardized training regional MCS Centre (Develop a training course in accordance with Appendix D);
- Information sharing (Network and databases) (Adopt and/or link with RFMO authorized vessel lists and IUU vessel lists regionally), and
- Funding for implementation of regional MCS Centre.

This document contains the report of the FAO Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing, that was held at Cape Town, South Africa, from 28 to 31 January 2008. The objective of the Workshop was to develop national capacity and promote bilateral, subregional and/or regional coordination so that countries will be better placed to strengthen and harmonize port State measures and, as a result, implement the relevant International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing tools and the FAO Model Scheme and contribute to the development of a legally-binding instrument on port State measures. The Workshop addressed: background and framework for port State measures; global and regional issues relating to IUU fishing and port State measures and the 2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing; the 2007 draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the implementation of regional and national port State measures; adoption and implementation of port State measures by regional fisheries management organizations and the implementation of measures in the Southern and East Africa subregion; operational and information requirements for effective port State measures; industry perspectives on port State measures and national responses to questionnaires; and key issues for further action and cooperation in strengthening and harmonizing port State measures. Working groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. In one exercise they addressed various aspects of port State measures, and recommended and prioritized areas for regional cooperation in implementing port State measures. They also identified further types of support needed to implement port State measures and in another exercise they considered certain thematic aspects relating to the FAO Model Scheme and the draft Agreement on port State measures. This exercise included legal aspects, information requirements, systems and inspection procedures, the results of inspection and training. Funding and support for the Workshop were provided by the FAO Regular Programme, by the Government of Norway through the Trust Fund for Port State Measures (MTF/GLO/206/MUL) and the FishCode Programme (MTF/GLO/125/MUL [Sweden-SIDA] [SWE/05/IUU Port State Measures/IUU fishing]). Funding was also provided by the UK Department for International Development (DFID).

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