

## **EC suggestions on provisions on entry into and use of ports**

### **PART 2 ENTRY INTO PORT**

#### *Article 7 Designation of ports*

1. Each Party shall designate and publicize the ports to which vessels not entitled to fly its flag may request access for landing, transshipping, packaging or processing fish, or access to services [including, *inter alia*, refuelling and resupplying].

[2. Each Party shall, to the greatest extent possible, ensure that every port designated and publicized in accordance with paragraph 1 of this Article, has sufficient capacity to conduct inspections in relation to landing, transshipping, packaging or processing fish whenever a vessel not entitled to fly its flag requests access to its publicized ports for those purposes as well as for other port services such as refuelling and resupplying.]

#### *Article 8 Advance request for port entry*

1. Each Party shall require, as a minimum standard the information set out in Annex B to be provided before authorising a vessel to enter into its port.

2. Each Party shall require the information referred to in paragraph 1 of this Article to be provided sufficiently in advance to allow adequate time for the port State to examine the required information.

*(both paras moved to proposed new Article 8ter)*

#### *Article 8bis Port entry authorization*

On the basis of the information provided in Article 8, each Party shall communicate an authorization, or prohibition, for entry into the port to the vessel seeking access to its ports. The vessel shall present the authorization for entry into the port to the competent authorities of the Party upon its arrival at port.

#### *Article 8ter prohibition of entry into port*

1. A Party shall prohibit a vessel to enter into its ports if the vessel is included in a list of vessels having engaged in, or supported, illegal, unreported and unregulated fishing adopted by a regional fisheries management organization in accordance with the rules and procedures of such organization.

2. Nothing in this Agreement shall be interpreted to prevent a Party from allowing entry into its ports of a vessel for the purpose of taking action which are as effective as the measures referred to in paragraph 1 of this Article.

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

#### *Article 9 Use of ports*

[1. A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish or other port services, including, *inter alia*, refuelling and resupplying maintenance and drydocking if, at the relevant time, the vessel:

(a) was engaged in fishing in an area and for fish under the competence of a regional fisheries management organization and was not flying the flag of a member or cooperating non-member of that organization; or

(b) has been reported as engaged in, or supporting, illegal, unreported and unregulated fishing in the area of competence of a relevant regional fisheries management organization or in an area under the national jurisdiction of a coastal State, or

[(c) has been identified as engaged in or supporting unregulated fishing activities in areas or in relation to species where there are no applicable conservation or management measures and where the said fishing activities are not carried out in accordance with responsibilities relevant to the conservation of living marine resources that fall on the flag State in accordance with international law,

unless the vessel can establish that the catch was taken in a manner consistent with relevant conservation and management measures.

*(situation covered by Article 8ter on prohibition of entry for IUU-listed vessels)*

3. A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish , or other port services, including, *inter alia*, refuelling and resupplying where there are reasonable grounds for believing that the vessel does not have a valid and applicable authorization to engage in fishing and fishing related activities required:

(a) by its flag State in high seas areas not covered by any regional fisheries management organization;

(b) in the area of competence of a relevant regional fisheries management organization; or

(c) by a coastal State for areas under its national jurisdiction.

3 bis A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish or other port services including, *inter alia*, refuelling and resupplying maintenance and drydocking where the flag State fails to confirm that the catch was taken in accordance with applicable requirements of a relevant regional fisheries management

organization or a relevant coastal State in the case where the fish was caught in the areas of their competence or jurisdiction respectively.

4. A Party shall not deny a vessel referred to in paragraphs 1, 2 or 3 or 3 *bis* of this Article, access to port services essential to the safety and health [and welfare] of the crew and safety of the vessel.

5. Where a Party has denied the use of its ports in accordance with this Article, it shall promptly notify the flag State and, as appropriate, relevant coastal State(s), regional fisheries management organization(s) and other international organizations of such action.

#### *Article 10*

#### *Withdrawal of denial of use of port*

1. A Party shall withdraw its denial of the use of its port in respect of a vessel if there is sufficient proof to show that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.

2. Where a Party has withdrawn its denial pursuant to paragraph 1 of this Article, it shall promptly notify those to whom a notification was issued pursuant to Article 9 of this Agreement.

### **PART 4**

#### **INSPECTIONS AND FOLLOW-UP ACTIONS**

#### *Article 11*

#### *Levels and priorities for inspection*

1. Each Party shall endeavour to inspect a number of vessels in its ports required to reach an annual level of inspections necessary to achieve the objective of this Agreement.

2. Each Party shall ensure that all vessels that:

(a) enter into its ports without prior authorization under Article 8bis, or

(b) have been prohibited the use of one of its ports in accordance with Article 9 of this Agreement

shall be subject to inspection.

3. In determining which other vessels to inspect, a Party shall use risk analysis means and shall give priority to:

(a) vessels that have been prohibited from entering or using a port of another Party in accordance with this Agreement; and

- (b) requests from other relevant States or regional fisheries management organizations that particular vessels be inspected.

4. Parties shall seek to agree, through regional fisheries management organizations or otherwise, on minimum levels for inspections of vessels, with a view to reaching a coordinated level of inspections necessary to achieve the objective of this Agreement.