

MALAYSIA

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

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
<p>Article 10</p> <p>Withdrawal of denial of use of port</p>	<p>(1). A Party may withdraw its denial of the use of its port in respect of a vessel only if the Party is satisfied that 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.</p>	<p>Article 10(1) provides that there is a need for “sufficient proof” to show that the grounds for denial were inadequate or erroneous.</p> <p>As such Malaysia would like to seek further clarification as to which Party (the Port State or the Party effected by the denial) should provide the “sufficient proof”.</p> <p>In addition to the above, further clarification is also sought as to what tantamount to “sufficient” proof.</p> <p>Malaysia would like to seek clarification as to whether the Party affected would be able to appeal should the Port State were to maintain the denial to use its port if the Port State deems that there was no sufficient proof to show otherwise.</p>
	<p>(2). Where a Party has withdrawn its</p>	<p>It is noted that notification would be given if the</p>

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	denial pursuant to paragraph 1 of this Article, it shall promptly notify those to whom a notification was issued pursuant to this Agreement.	denial is withdrawn. Malaysia would like to seek clarification as to how the notification should be given by the port State.
<p>Article 11</p> <p>Levels and priorities for inspection</p>	<p>(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.</p>	<p>Further clarification is needed as to the minimum number of inspections that would be considered necessary to achieve the objective of this Agreement.</p> <p>It would seem that since “port” is defined under Article 1 to include offshore terminals and other installations for landing, transhipping, processing, refuelling or resupplying, Malaysia would like to seek further clarification as to whether inspection should also be done at installations located in the territorial sea or exclusive economic zone.</p>
	<p>(2) In determining which vessels to inspect, a Party shall give priority to:</p> <p>a) vessels that have been denied the use of a port in accordance with Article 9 or 17 of this Agreement; and</p> <p>b) requests from other relevant States or regional fisheries management organizations that particular vessels be inspected.</p>	<p>Clarification is needed as to how the request should be forwarded so as to enable port State to give priority in inspecting the required vessels.</p>

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	<p>(3) 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.</p>	<p>Malaysia has no objection to this provision.</p>
<p>Article 12 Conduct of inspections</p>	<p>1. Each Party shall ensure that the inspection procedures in Annex B are implemented as a minimum standard.</p>	<p>It is noted that Annex B provides as follows:</p> <p><i>The inspector(s) shall:</i></p> <p>(a) <i>verify that the vessel identification documentation onboard and information relating to ownership is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;</i></p> <p>(b) <i>verify that the vessel's flag and markings (e.g. name, external registration number, IMO ship identification number, international radio call sign and other markings) are consistent with information contained in the documentation;</i></p> <p>(c) <i>to the extent possible, verify that the authorization(s) for fishing and fishing related activities is/are true, complete and correct and consistent with the information provided in accordance with Annex A;</i></p>

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		<p><i>(d) to the extent possible, review all other relevant documentation and records, including those in electronic format and VMS data. Relevant documentation may include logbooks, catch and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);</i></p> <p><i>(e) inspect all gear on board, including any gear stowed out of sight, and to the extent possible to verify that it is in conformity with the conditions of the authorization(s). The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twice size(s), devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;</i></p> <p><i>(f) to the extent possible, examine whether the fish on board was harvested in accordance with the applicable authorization(s);</i></p> <p><i>(g) examine the catch in the hold or during or after the landing to determine the quantity and composition of all catch onboard, including by sampling. In doing so, the port inspector(s) may open cartons where the catch has been pre-</i></p>

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		<p><i>packed and move the catch or cartons to ascertain the integrity of fish holds, Such examination may include inspections of product type and determination of nominal weight. The inspector(s) may also examine any catch retained onboard;</i></p> <p><i>(h) evaluate whether there is reasonable evidence for believing that a vessel has engaged in, or supported IUU fishing;</i></p> <p><i>(i) provide the report containing the result of the inspection to the master of the vessel, to be signed by the inspector and the master. The master's signature of the report shall serve only as acknowledgement of the receipt of a copy of the report. The master shall be given the opportunity to add any comments to the report; and</i></p> <p><i>(j) where necessary, arrange for an official translation of relevant documentation.</i></p> <p>Having studied the inspection procedures listed in Annex B further clarification is needed as to whether a port State would be penalised in the event it is unable to adhere to the inspection requirements listed in Annex B, be it due to lack of man power or expertise, since the inspection procedures under Annex B are the minimum standard that must be implemented by port State.</p>

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	<p>2. Each Party shall, in carrying out inspections in its ports:</p> <p>a) ensure that inspection are carried out by properly qualified persons authorized for that purpose, having regard in particular 16 of this Agreement</p>	<p>It is noted that Article 16 provides that the certification of inspectors should take into account the guidelines for the training of inspectors as prescribed under Annex E.</p> <p>Annex E provides as follows:</p> <p><i>Elements of a training programme for port State inspectors should include at least the following areas:</i></p> <ol style="list-style-type: none"> <i>1. Ethics</i> <i>2. Health, safety and security issues</i> <i>3. Applicable laws and regulations, areas of competence and conservation and management measures of relevant regional fisheries management organizations, and applicable international law</i> <i>4. Collection, evaluation and preservation of evidence</i> <i>5. General inspection procedures such as report writing and interview techniques</i>

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		<p>6. <i>Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag), required for the validation of information given by the master of the vessel</i></p> <p>7. <i>Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes</i></p> <p>8. <i>Verification and validation of information related to landings, transshipment, processing and catch remaining onboard, including utilizing conversion factors for the various species and products</i></p> <p>9. <i>Identification of fish species and the measurement of length and other biological parameters</i></p> <p>10. <i>Identification of vessels and gear and techniques for the inspection and measurement of gear</i></p> <p>11. <i>Equipment and operation of VMS and other electronic tracking systems</i></p> <p>12. <i>Actions to be taken following an inspection</i></p> <p>13. <i>Relevant languages, particularly English</i></p>

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		<p>Having studied Annex E further clarification is need as to whether a port State would be penalised in the event it is unable to ensure that inspections are carried out by properly qualified persons due to lack of man power or expertise, since the guidelines prescribed under Annex E are quite extensive.</p> <p>As such, Malaysia seeks clarification as to whether a port State could seek the assistance of the FAO or other States which have the expertise to assist in training its inspectors in the event the port State does not have the necessary expertise.</p>
	<p>b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessels an appropriate document identifying the inspectors as such;</p>	<p>Malaysia seeks further clarification as to whether the “appropriate document” would be up to the discretion of the port State to decide.</p> <p>In addition, clarification is needed as to whether the master of the vessel has the right not to accept the inspectors or the document identifying the inspectors. In such situation, further clarification is also sought as to the actions that may be taken by the port State.</p>
	<p>c) ensure that the inspector examines all areas of the vessel that are required, fish on board, the nets and any other gear, equipment, and any document or record which the inspector deems necessary to verify</p>	<p>Malaysia would like to seek clarification as to what the words “deems necessary” entail.</p> <p>Furthermore, in the event the master of the vessel refuses to provide the document or record on the ground that the said document or</p>

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	compliance with relevant conservation and management measures;	record would not be deemed necessary for such inspection would the inspectors have the right to demand such document or record from the master of the vessel.
	d) ensure that the master of the vessels is required to give the inspector all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;	<p>Malaysia seeks further clarification as to the action that would be required from the port State so as to ensure that the master of the vessel to give the inspector the necessary assistance and information.</p> <p>In the event that the master of the vessel failed to provide the inspector the necessary assistance and information, clarification is needed as to the cause of action that could be undertaken by the port State in relation to the master of the vessel.</p> <p>Malaysia is concern that the word “may” is too open-ended and that the documents have not been specifically identified.</p>
	e) subject to appropriate arrangements with the flag state of the vessel, invite the flag state to participate in the inspection;	<p>Malaysia would like to express her concern as regards this provision i.e. as to the consequences should the flag state delay in participating in the inspection.</p> <p>In such a situation would the port State be liable for compensation for such undue delay in conducting the inspection.</p> <p>In this regard, further clarification is needed as</p>

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		to whether the port State would be able to seek compensation from the flag State.
	f) make all possible efforts to avoid unduly delaying the vessels and ensure that the vessel suffers the minimum interference and inconvenience and that unnecessary degradation of the quality of the fish is avoided;	Further clarification is needed as to what amounts to “unduly delaying the vessels”. In addition to the above, Malaysia seeks clarification as to whether the port State would be required to pay compensation should delay occur which resulted in the degradation of the quality of the fish.
	g) ensure that an inspector is able to communicate with the master or senior crew members of the vessel, or that the inspector is accompanied, where possible and where needed, by an interpreter;	Malaysia would like to express her concern that should the inspection be conducted on installations situated in the exclusive economic zone problem would arise in getting an interpreter. Malaysia would like to propose the words "who is to be provided and funded by the agent, owner or master" should be inserted at the end of the sentence. In addition to the above, the term “interpreter” should be further clarified in order to ensure that the interpreter accompanying the inspector is an authorized and qualified interpreter.
	h) ensure that inspections are not conducted in a manner that would constitute harassment of any vessel, and	Further clarification is needed as to what constitute “harassment of any vessel”.
	i) ensure that the result of an inspection is presented to the master of the vessels for review and	Malaysia would like to seek further clarification as to whether the validity of the result would be affected should the master of the vessel refuse

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	signature, and that the report is completed and signed by the inspector. The master shall be given the opportunity to add any comment to the report and, as appropriate, to contact the relevant authorities of the flag state, in particular when the master has serious difficulties in understanding the contents of the report. A copy of the report shall be provided to the master for retention on board the vessel.	to sign the report. Malaysia is of the view that the master of vessels should only acknowledge the results of the inspection and should not add any comment to the report. In this respect, Malaysia would like to propose that the word “signature” should be replaced with “acknowledgement” and the words “to add any comment to the report and, as appropriate” be deleted.
Article 13 Results of inspections	Each Party shall, as a minimum standard, require the information set out in Annex C to be included in the report of the results of each inspection.	Malaysia has no objection relating to this provision.
Article 14 Transmittal of results by Party	Each Party shall take measures to transmit the results of each inspection to the flag State of the inspected vessels and, as appropriate, to: a) other relevant states; b) relevant regional fisheries management organizations; and c) FAO and other relevant international organizations	Malaysia would like to seek further clarification as to the procedure or method that should be followed to transmit the results.

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<p>Article 15</p> <p>Electronic exchange of information</p>	<p>1. To facilitate implementation of this Part of the Agreement, each Party shall, where possible, establish a communication mechanism that allows for direct electronic exchange of messages between relevant states, entities and institutions, with due regard to appropriate confidentiality requirements.</p>	<p>Malaysia would like to seek clarification as to whether the requirements relating to confidentiality under paragraph 1 would be up to each State to establish.</p> <p>Furthermore, Malaysia would like to seek clarification as to the cause of action that could be undertaken by the sending State in the event that the receiving State fails to adhere to the confidentiality requirements.</p>
	<p>2. Each Party shall handle information to be transmitted through any mechanism established under paragraph 1 in a standardized form consistent with Annex D.</p>	<p>It is noted that Annex D provides as follows:</p> <p><i>In implementing this Agreement, Parties shall:</i></p> <p><i>a) seek to establish computerized communication in accordance with Article 6, paragraph 1 and Article 15 of this Agreement;</i></p> <p><i>b) to the extent possible, establish websites to publicize the list of ports designated in accordance with Article 7 of this Agreement and the actions taken in accordance with Article 9 of this Agreement;</i></p> <p><i>c) ensure that inspection reports include as a minimum the information required in Annex C. Each inspection report should be identified by a unique reference number starting with 3-alpha country code of the port State and identification of issuing agency;</i></p>

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		<p><i>d) to the extent possible, utilize the international coding system below and shall translate any other coding system into the international system.</i></p> <p><i>countries/territories: ISO-3166 3-alpha Country Code</i> <i>species: FAO 3-alpha code</i> <i>vessel types: FAO alpha code</i> <i>gear types: FAO alpha code</i> <i>devices/attachments: FAO 3-alpha code</i> <i>ports: UN LO-code</i></p> <p>In view of the technical nature of this provision Malaysia would like to seek more clarification on this provision.</p>
<p>Article 16 Training of inspectors</p>	<p>Each Party shall ensure that requirements are established for the certification of its inspectors. Such requirements shall take into account the guidelines for the training of inspectors in Annex E.</p>	<p>Malaysia has no objection to this provision.</p> <p>Annex E provides as follows:</p> <p><i>Elements of a training programme for port State inspectors should include at least the following areas:</i></p> <ol style="list-style-type: none"> <i>1. Ethics</i> <i>2. Health, safety and security issues</i> <i>3. Applicable laws and regulations, areas of competence and conservation and management measures of relevant regional fisheries management organizations, and applicable</i>

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		<p><i>international law</i></p> <p><i>4. Collection, evaluation and preservation of evidence</i></p> <p><i>5. General inspection procedures such as report writing and interview techniques</i></p> <p><i>6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag), required for the validation of information given by the master of the vessel</i></p> <p><i>7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes</i></p> <p><i>8. Verification and validation of information related to landings, transshipment, processing and catch remaining onboard, including utilizing conversion factors for the various species and products</i></p> <p><i>9. Identification of fish species and the measurement of length and other biological parameters</i></p> <p><i>10. Identification of vessels and gear and techniques for the inspection and measurement of gear</i></p>

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		<p>11. <i>Equipment and operation of VMS and other electronic tracking systems</i></p> <p>12. <i>Actions to be taken following an inspection</i></p> <p>13. <i>Relevant languages, particularly English</i></p> <p>Having studied Annex E Malaysia would like to seek further clarification as to whether a port State would be penalised in the event it is unable to ensure that inspections are carried out by properly qualified persons due to lack of man power or expertise, since the guidelines prescribed under Annex E are quite extensive.</p> <p>As such, Malaysia seeks further clarification as to whether a port State could seek the assistance of the FAO or other States which have the expertise to assist in training its inspectors in the event the port State does not have the necessary expertise.</p>
<p>Article 17</p> <p>Port State actions following inspection</p>	<p>1. When, following an inspection, there is reasonable evidence for believing that a vessel has engaged in, or supported, illegal, unreported and unregulated fishing which can include, but is not limited to, the</p>	

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	<p>following:</p> <p>(a) fishing without a valid licence, authorization or permit issued by the flag State or the relevant coastal State;</p> <p>(b) serious failure to maintain accurate records of catch and catch-related data;</p> <p>(c) serious misreporting of catch;</p> <p>(d) significant fishing in a closed area, during a closed season or contrary to applicable effort or quota requirements;</p> <p>(e) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;</p> <p>(f) using fishing gear that is significantly inconsistent with authorized gear;</p> <p>(g) falsifying or concealing the markings, identity or registration of the</p>	<p>Malaysia would like to seek clarification as to what amounts to "serious failure" under paragraph 1(b).</p> <p>Malaysia would like to seek further clarification as to what amounts to "serious misreporting" under paragraph 1(c).</p> <p>In addition to the above, Malaysia seeks further clarification as to what amounts to "significant fishing in a closed area" under paragraph 1(d).</p> <p>Malaysia seeks clarification as to what amounts to "significantly inconsistent" under paragraph 1(f).</p>

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	<p>vessel;</p> <p>(h) concealing, tampering with or disposing of evidence relating to an investigation;</p> <p>(i) serious failure to comply with requirements for vessel monitoring systems (hereafter VMS);</p> <p>(j) taking or landing significant amounts of undersized fish in contravention of relevant conservation and management measures; or</p> <p>(k) committing multiple violations which together constitute a serious disregard of relevant conservation and management measures,</p> <p><i>(l) refusal or neglect to produce records for inspection;</i></p> <p><i>(m) obstruction of authorized officer.</i></p> <p>the Party shall promptly notify the flag State of the vessel and, as appropriate, other relevant States and</p>	<p>Malaysia would like to seek clarification as to which “relevant conservation and management measures” would be applicable under paragraph 1(j) and (k) i.e. the port State or the regional conservation and management measures.</p> <p>Malaysia would also like to propose that the following be inserted after paragraph 1(k) and marked as paragraph 1(l) and (m):</p> <p><i>(l) refusal or neglect to produce records for inspection;</i></p> <p><i>(m) obstruction of authorized officer.</i></p> <p>Malaysia would like to seek clarification as to the form and procedure of notification that should be adhered to by the port State.</p>

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	<p>regional fisheries management organizations and other relevant organizations and shall deny use of its port to the vessel for landing, transshipping or processing of fish, if these measures have not already been taken in respect of the vessel.</p> <p>2. A Party shall, in appropriate situations, deny a vessel referred to in paragraph 1 of this Article access to port services, including, <i>inter alia</i>, refuelling and resupplying but not including services essential to the safety, health and welfare of the crew.</p> <p>3. A Party may take measures in addition to those specified in paragraphs 1 and 2 of this Article that are consistent with international law where there is evidence that a vessel has engaged in one or more of the activities set forth in paragraph 1, provided that:</p> <p>(a) the measures are provided for in its national laws and regulations;</p> <p>(b) the flag State of the vessel has consented to the taking of such measures or requested such</p>	<p>Further clarification is sought as to what amounts to “appropriate situations” under paragraph 2.</p> <p>Malaysia has no objection to the operating paragraph of paragraph 3.</p> <p>Malaysia has no objection to paragraph 3(a).</p> <p>Malaysia would like to seek further clarification as to how the form and procedure of the consent that would have to be given by the flag State.</p>

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	<p>measures to be taken or a relevant coastal State has requested the taking of such measures in respect of a violation that has occurred in an area under its national jurisdiction;</p> <p>(c) the vessel is without nationality; or</p> <p>(d) the additional measures gives effect to a decision of a regional fisheries management organization or is taken pursuant to other international agreements.</p>	<p>Further consideration should be made as to overlapping maritime areas. In such areas any request by a flag State (which is a neighbouring State to the port State) should be without prejudice and should not constitute having jurisdiction over the maritime areas.</p> <p>Malaysia has no objection to paragraph 3(c).</p> <p>Malaysia has no objection to paragraph 3(d).</p>
<p>Article 18</p> <p>Appeals concerning actions by the port State</p>	<p>A Party shall ensure that the owner, operator or representative of a vessel that has been the subject of port State measures taken pursuant to Articles 9 and 17 of this Agreement may appeal the decision. An appeal will not cause such measures to be suspended while the appeal is pending. The master of the vessel shall be informed of the right of appeal.</p>	<p>Malaysia would like to seek clarification as to the procedure of the appeal that would have to be followed.</p> <p>Furthermore, clarification is needed as to how the form and procedure of the notification should be made by the port State to the master of the vessel informing the master of the right of appeal.</p>
<p>Article 19</p> <p>Compensation</p>	<p>Each Party shall ensure that the owner or operator of a vessel is entitled to compensation for any loss or damage suffered as a consequence of undue delay. In any instance of alleged delay, the burden</p>	<p>Malaysia would like to seek clarification as to what amounts to undue delay.</p> <p>In this regard, Malaysia suggests to define "undue delay".</p>

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	of proof lies with the owner or operator of the vessel.	
Article 20 Force Majeure or distress	Nothing in this Agreement affects the access of vessels to port in accordance with international law for reasons of force majeure or distress.	Malaysia has no objection to this provision.
Article 21 Role of flag States	1. Each Party shall, in its capacity as a flag State, cooperate with port States and relevant coastal States, regional fisheries management organizations and other international organizations in the implementation of this Agreement.	Malaysia has no objection to this provision.
	2. When a Party has reasonable grounds to believe that a vessel flying its flag has engaged in or supported illegal, unreported and unregulated fishing and is seeking access to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Agreement.	Malaysia would like to seek clarification as to how the request should be made by the flag State to the port State.
	3. Each Party shall ensure that vessels entitled to fly its flag land, transship and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent, with this	Malaysia has no objection to this provision.

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	<p>Agreement. Parties are encouraged to develop, through regional fisheries management organizations, fair, transparent and non-discriminatory procedures for identifying States that are not acting in accordance with, or in a manner consistent with, this Agreement.</p>	
	<p>4. Each Party shall, in its capacity as a flag State, report to relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions they have taken in respect of vessels flying their flags that, as a result of port State measures taken under this Agreement, have been determined to have engaged in, or supported, illegal, unreported and unregulated fishing.</p>	<p>Malaysia would like to seek clarification as to how the report should be made by the flag State to the port States, relevant States, regional fisheries management organizations and FAO.</p>
<p>Article 22 Requirements of developing States</p>	<p>1. Each Party shall give full recognition to the special requirements of developing States in relation to the implementation of port state directly or through FAO and other specialized agencies of the United Nations and other appropriate international and regional management organizations, provide assistance to developing States in</p>	<p>Further clarification is sought as to the kind of “assistance” that would have to be given to the developing States. This is in view of the fact that assistance could be in the form of financial, technical or expertise. As such, would the assistance be in the form of either one or all of the above.</p>

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	<p>order to:</p> <p>(a) enhance the ability of developing States, in particular the least-developed among them and small island developing States, to develop a legal basis and human capacity for the implementation of effective port State measures;</p> <p>(b) facilitate the participation of developing States in any subregional, regional and international organizations that promote the effective development and implementation of port State measures; and</p> <p>(c) facilitate technical assistance to strengthen the implementation of port State measures by developing States, in coordination with relevant regional and international measures and mechanisms.</p>	
	<p>2. In implementing this Agreement, Parties shall give due regard to the need to ensure that a disproportionate burden is not transferred directly or indirectly onto developing port states.</p>	<p>Malaysia would like to propose that a new sentence be inserted at the end of the sentence of paragraph 2 i.e. “Developing states shall be given sufficient time and resources to implement this Agreement”.</p>

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	<p>3. Parties shall cooperate to establish special funds to assist developing States Parties in the implementation of this Agreement. These funds shall be directed specifically towards:</p> <p>(a) developing national, regional and international port State measures;</p> <p>(b) developing human capacity, including for fisheries managers, inspectors, monitoring, control and surveillance and legal personnel, including training and capacity-building at national and regional levels;</p> <p>(c) monitoring, control, surveillance and compliance activities relevant to port State measures; and</p> <p>(d) assisting developing States Parties to meet the costs involved in any proceedings for the settlement of disputes that results from action they have taken pursuant to this Agreement.</p>	<p>Malaysia has no objection to this provision.</p>
<p>Article 23</p> <p>Peaceful Settlement of Disputes</p>	<p>1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the</p>	<p>Malaysia has no objection to this provision.</p>

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	provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.	
	2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute by settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.	Malaysia has no objection to this provision.
	3. Any party to a dispute of this character not so resolved may refer the dispute for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration.	Malaysia has no objection to this provision.
Article 24 Non Parties to this Agreement	1. Parties shall encourage non-Parties to this Agreement to become Parties thereto and to adopt laws and regulations consistent with its provisions. 2. Parties shall take fair, non-	Malaysia has no objection to this provision.

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	discriminatory and transparent measures consistent with this Agreement and international law to deter the activities of non-Parties which undermine the effective implementation of this Agreement.	
Article 25 Monitoring and Review	Parties shall, within the framework of FAO and its relevant Bodies, ensure the regular and systematic monitoring of the implementation of this Agreement and the assessment of the progress made towards achieving its objective.	Malaysia has no objection to this provision.
Article 26 Signature	The Agreement shall be open for signature at ** from ** until **, by all States and regional economic integration organization as referred to in Article 1(m).	Malaysia has no objection to this provision.
Article 27 Ratification, acceptance or approval	<p>1. This Agreement shall be subject to ratification, acceptance or approval by the signatories.</p> <p>2. The instrument of ratification, acceptance or approval shall be deposited with the Depositary.</p>	Malaysia has no objection to this provision.
Article 28 Accession	1. This Agreement shall be open for accession, after its closure for signature, by any State or regional	Malaysia has no objection to this provision.

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	<p>economic integration organization.</p> <p>2. Instruments of accession shall be deposited with the Depository.</p>	
<p>Article 29</p> <p>Regional Economic Integration Organizations</p>	<p>1. When a regional economic integration organization becomes a Party to this Agreement, it shall notify any change regarding its distribution of competence as may be relevant to this Agreement. Any Party to this Agreement may, at any time, request a regional economic integration organization that is a Party to this Agreement to provide information as to which, as between such Organization and its Member States, is responsible for the implementation of any particular matter covered by this Agreement. The regional economic integration organization shall provide this information within a reasonable time.</p>	<p>Malaysia has no objection to this provision.</p>
	<p>2. Instruments of ratification, acceptance, approval, amendment or withdrawal deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.</p>	<p>Malaysia has no objection to this provision.</p>

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
Article 30 Entry into force	1. This Agreement shall enter into force ** after the deposit with the Depositary of the ** instrument of ratification, acceptance, approval or accession in accordance with Article 27 or 28.	Malaysia has no objection to this provision.
	2. For each signatory which ratifies, accepts or approves this Convention after entry into force, this Agreement shall enter into force [** days after/upon] the deposit of its instrument of ratification, acceptance or approval.	Malaysia has no objection to this provision.
	3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force [** days after/upon] the deposit of its instrument of accession.	Malaysia has no objection to this provision.
Article 31 Reservations and exceptions	No reservations or exceptions may be made to this Agreement.	Malaysia has no objection to this provision.
Article 32	Article 31 does not preclude a State or regional economic integration	Malaysia has no objection to this provision.

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
Declarations and statements	organization, when signing, ratifying or acceding to this Agreement, from making a declaration or statement, however phrased or named, with a view to, inter alia, the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or regional economic integration organization.	
Article 33 Provisional application	Before its entry into force, this Agreement may be applied provisionally by States or regional economic integration organizations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.	Malaysia has no objection to this provision.
Article 34 Amendments	1. This Agreement may be amended by a [two-thirds majority of the Parties].	Malaysia has no objection to this provision.
	2. Any Party may propose an amendment to the Agreement by providing to the Depositary the text of	Malaysia has no objection to this provision.

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
	a proposed amendment	
	3. Amendments to this Agreement shall enter into force [ninety (90)] days after notification of acceptance or approval to the Depositary by [two-thirds] of the Parties	Malaysia has no objection to this provision.
	4. States or regional economic integration organizations that become Parties after the entry into force of amendments to this Agreement shall be considered to be Party to the Agreement as amended.	Malaysia has no objection to this provision.
Article 35 Annexes	1. The Annexes form an integral part of this Agreement, and a reference to this Agreement shall constitute a reference to the Annexes.	Malaysia has no objection to this provision.
	2. The Annexes may be revised from time to time by Parties. Notwithstanding the provisions of Article 34, if a revision to an Annex is adopted by consensus at a meeting of Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus, the amendment procedures set out in	Malaysia has no objection to this provision.

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
	Article 34 shall apply.	
Article 36 Withdrawal	Any Party may withdraw from this Agreement at any time after the expiry of [two years] from the date upon which the Agreement entered into force with respect to that Party by giving written notice of such withdrawal to the Depositary. Withdrawal shall become effective [** days/months] after receipt of the notice of withdrawal by the Depositary	Malaysia has no objection to this provision.
Article 37 The Depositary	The Director-General of the Food and Agriculture Organization of the United Nations shall be the Depositary of this Agreement. The Depositary shall: <p>(a) transmit certified copies of this Agreement to each signatory and Party;</p> <p>(b) register this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;</p> <p>(c) promptly inform all signatories of and Parties to this Agreement of all:</p> <p>(i) signatures and instruments of</p>	Malaysia has no objection to this provision.

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
	<p>ratification, acceptance, approval and accession deposited under Articles 26, 27 and 28;</p> <p>(ii) the date of entry into force of this Agreement in accordance with Article 30;</p> <p>(iii) proposals for amendment to this Agreement and their entry into force in accordance with Article 34;</p> <p>(iv) proposals for amendment to the Annexes in accordance with Article 35; and</p> <p>(v) withdrawals from this Agreement in accordance with Article 36.</p>	
<p>Article 38 Authentic Texts</p>	<p>The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.</p>	<p>Malaysia has no objection to this provision.</p>
	<p>IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Convention.</p>	
	<p>DONE at **, on this ** day of **, 200*,</p>	<p>Malaysia would like to propose that the following</p>

ARTICLE	FAO TEXT	SUGGESTED AMENDMENT/COMMENTS
	<p>in Arabic, Chinese, English, French, [Russian] and Spanish, all six texts being equally authentic. <i>In the event of divergence on the interpretation the English text shall prevail.</i></p>	<p>words be inserted at the end of the sentence:</p> <p><i>In the event of divergence on the interpretation the English text shall prevail.</i></p>