

Submitted 23 September 2008

The Russian Federation comments on Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

Article, paragraph, subparagraph	Present wording	Suggestions of the Russian Federation on the wording amendments
1, 1, (a)	[(a) “conservation and management measures” means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;]	“conservation and management measures” means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;
1, 1, (b)	“fish” means all species of living marine resources, whether processed or not;	“fish” means all the harvested species of living marine resources, whether processed or not;
1, 1, (e)	“illegal, unreported and unregulated fishing” has the meaning set out in Annex A and applies to all marine fisheries;	“illegal, unreported and unregulated fishing” has the same meaning as set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and applies to all marine fisheries;
1, 1, (g)	“port” includes offshore terminals and other installations for landing, transshipping, processing, refuelling or resupplying;	“port” means a complex of facilities, located on specially designated territory and aquatory, and intended for performing of fishing related activities;
1, 1, (j)	“vessel” means any vessel, ship of another type and boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.	“vessel” means any vessel used or intended to be used for fishing or fishing related activities.
2	The objective of this Agreement is to prevent, deter and eliminate illegal, unreported and unregulated fishing through the implementation of effective port State measures , and thereby to ensure the long-term conservation and	The objective of this Agreement is to prevent, deter and eliminate illegal, unreported and unregulated fishing through the implementation of effective port State measures for performing the

	sustainable use of living marine resources and marine ecosystems.	long-term conservation and sustainable use of living marine resources and marine ecosystems.
3, 1bis	A Party in its capacity as a port State may choose not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Those vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels flying its flag.	A Party in its capacity as a port State may choose not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be subject to measures by this Party.
3, 2	[Each Party shall ensure that port State measures applied in relation to vessels flying its flag are as effective as measures applied in relation to vessels referred to in paragraph 1 of this Article.]	To delete the whole paragraph
4, 1, (b)	the exercise by States of their sovereignty over ports in their territory in accordance with international law, including their right to deny access thereto as well as to adopt more stringent port State measures than those provided in this Agreement;	the exercise by the Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny access thereto as well as to adopt more stringent port State measures than those provided in this Agreement;
4, 1, (c)	[the competence of members of regional fisheries management organizations to adopt more stringent port State measures.]	To delete the whole paragraph
4, 1bis	[Nothing in this Agreement will mean acceptance or recognition by a State of any kind of commitment to ensure compliance by a port State with measures or decisions adopted by a regional fisheries management organization in which it is not a member.] [Nevertheless such State should contribute to the extent possible in accordance with its laws and regulations to rendering effective the measures taken by such regional fisheries management organization.]	Nothing in this Agreement will mean acceptance or recognition by a Party of any kind of commitment to ensure its compliance with measures or decisions adopted by a regional fisheries management organization in which this Party is not a member. Nevertheless such Party should contribute to the greatest extent possible in accordance with its laws and regulations to rendering effective assistance to the measures taken by such regional fisheries management organization.
4, 1tris	[Nothing in this Agreement shall be interpreted or applied to the detriment of the jurisdiction of the flag State over its fishing vessels in	Nothing in this Agreement shall be interpreted or applied to the detriment of the jurisdiction of the flag State over its

	conformity with international law.]	fishing vessels in conformity with international law.
4, 2	This Agreement shall be interpreted and applied in conformity with the relevant rules of international law [and in a manner consistent with other relevant international instruments].	This Agreement shall be interpreted and applied in conformity with the relevant rules of international law.
4, 3 <i>bis</i>	[3 <i>bis</i> In cases where national maritime jurisdiction areas are yet to be delimited by agreement of adjacent/opposite littoral States, especially those in semi-enclosed seas, the existing rights and interests of all coastal States should be respected.]	To delete the whole paragraph
5, (b)	integrate port State measures with other measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, [and fishing related activities] taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and	integrate port State measures with other measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
6, 1	In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations, including the measures adopted by such regional fisheries management organizations in relation to the objectives of this Agreement.	In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations, including the measures adopted by such regional fisheries management organizations in relation to the objective of this Agreement.
6, 2	To the greatest extent possible, each Party shall take measures in support of conservation and management measures adopted by other States and other relevant international organizations.	To the greatest extent possible, each Party shall take measures in support of effective conservation and management measures adopted by other States and other relevant international organizations
6, 3	Parties shall cooperate, at the subregional, regional and global levels, in	Parties shall cooperate, at the subregional, regional and global

	the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organizations and arrangements.	levels, in the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organizations or arrangements.
[Article 6 bis (Title to be supplied)]	[The port State shall allow landings, transshipment or supply of services to fishing vessels and to those providing support to fishing vessels and fishing related activities, only in cases when it can be proved that they have acted in conformity with conservation and management measures adopted in accordance with international law.]	To delete as duplicating the wording of Article 9, p.1
7, 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, <i>inter alia</i> , refuelling and resupplying].	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, <i>inter alia</i> , refuelling and resupplying.
7, 1 bis		Each Party shall notify of contact details of the port authorities of its designated ports and/or its competent authorities responsible for implementation of the present Agreement.
7, 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.]	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.
8, 1	Each Party shall require, [as a minimum standard] the information set out in Annex B to be provided before granting access to a vessel to its port.	Each Party shall require, as a minimum standard the information set out in Annex B to be provided to the port authorities of its designated ports or to its competent authorities responsible for implementation of the present Agreement before granting access to a vessel to its port.

8, 2 bis	[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 ** (referring to denial of access) of this Article.]	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 ** of Article **.
8 bis	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] [representative of the vessel who submitted the request for access]. The [vessel] [vessel representative] shall present the authorization for entry into the port to the competent authorities of the Party upon [its] [the vessel's] arrival at port.	On the basis of the information provided in Article 8, each Party shall communicate in advance an authorization or prohibition, for entry into its designated port to the vessel seeking access to its ports, or representative of the vessel who submitted the request for access. The vessel or the vessel representative shall present the authorization for entry into the port to the port authorities of the designated port or competent authorities of the Party upon the vessel's arrival at the port.
PART 3	ACCESS [, ENTRY] AND USE OF PORTS	ACCESS, ENTRY AND USE OF PORTS
9 (title)	<i>[Denial of] access [, entry and] use of ports</i>	<i>Denial of access, entry and use of ports</i>
9, 1	[Where a Party allows a vessel to enter its ports, it] [A Party] shall not allow [that] [a] vessel to use its ports for landing, transshipping, packaging or processing of fish or other [fishing related activities] [port services, including, <i>inter alia</i> , refuelling and resupplying] [maintenance and drydocking] if, at the relevant time, the vessel:	A Party shall not allow a vessel not authorized to fly its flag to call at its ports and use them for landing, transshipping, packaging or processing of fish or other fishing related activities, including, <i>inter alia</i> , refuelling and resupplying if, at the relevant time, the vessel:

9, 1, (a)	[was engaged in fishing [or fishing related activities] 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]	was engaged in fishing or fishing related activities 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; или
9, 1, (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]	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
9, 1, (c)	[has been identified as participating 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 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.]	has been identified as participating 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 carried out in a manner not consistent with the responsibilities on conservation of living marine resources that fall on the Party 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 or, in their absence, - in accordance with international law.
9, 2	A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish if the vessel is included on 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.	A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish as well as for other fishing related activities including, <i>inter alia</i> , refuelling and resupplying if the vessel is included on 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.

9, 3	A Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish 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 Party shall not allow a vessel to use its ports for landing, transshipping, packaging or processing of fish where the vessel does not have a valid and applicable authorization to engage in fishing and fishing related activities required:
9, 4	A Party shall not deny a vessel referred to in paragraphs 1, 2 [or] 3 [or 3 <i>bis</i>] of this Article, access to port services essential to the safety and health [and welfare] of the crew and safety of the vessel.	A Party shall not deny a vessel referred to in paragraphs 1, 2, 3 or 3 <i>bis</i> of this Article, access to port services essential to the safety and health of the crew and safety of the vessel.
9, 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.	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 appropriate international organizations of such action.
10, 1	A Party [may] [shall] withdraw its denial of the use of its port in respect of a vessel only 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.	1. A Party may withdraw its denial of the use of its port in respect of a vessel only 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.
12, 2, (h)	ensure that inspections are not conducted in a manner that would constitute harassment of any vessel; and	ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
15, 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.	1. To facilitate implementation of this Part of this 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.
17, 1, (a) bis		fishing without quota or after harvesting of the quota

17, 1, (a) tris		landing and/or transshipment of fish products in the port not designated in accordance with Article 7 of the present Agreement;
17, 1, (i) bis		prevention of an inspector in performing of his duties;
17, 1, (i) tris		participation in transshipment or joint fishing operations with the vessel included in a list of vessels, which have been engaged in or supported illegal, unreported and unregulated fishing, adopted by a regional fisheries management organization as well as refuelling, resupplying and rendering other services to such a vessel;
17, k	committing multiple violations which together constitute a serious disregard of relevant conservation and management measures, the Party shall promptly notify the flag State of the vessel and, as appropriate, other relevant States and 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.	committing multiple violations which together constitute a serious disregard of relevant conservation and management measures, the Party shall promptly notify the flag State of the vessel and, as appropriate, other relevant States and regional fisheries management organizations and other relevant organizations and shall deny use of its ports to the vessel for landing, transshipping, packing or processing of fish.
17, 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.	A Party shall, in appropriate situations, may 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 and health of the crew.
21, 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.	Each Party shall, in its capacity as a flag State, cooperate with port States and relevant coastal States, regional fisheries management organizations, FAO and other international organizations in the implementation of this Agreement.

21, 2 bis		Each Party as a flag State shall secure that the sanctions imposed for illegal, unreported and unregulated fishing conducted by vessels were sufficiently strong to effectively prevent, deter and eliminate illegal, unreported and unregulated fishing and to deprive those violating of the benefits received as a result of such fishing. Applying of sanctions should be consistent and transparent.
30,2	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.	For each signatory which ratifies, accepts or approves this Agreement after entry into force, this Agreement shall enter into force ** days after/upon the deposit of its instrument of ratification, acceptance or approval.
34, 2	Any Party may propose an amendment to the Agreement by providing to the Depositary the text of a proposed amendment.	Any Party may propose an amendment to the present Agreement by providing to the Depositary the text of a proposed amendment
34, 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	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 present Agreement as amended
36	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.	Any Party may withdraw from this Agreement at any time after the expiry of [two years] from the date upon which the present 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.
38	IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Convention.	IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Agreement.