

Report of the

FAO/FFA REGIONAL WORKSHOP TO PROMOTE THE FULL AND EFFECTIVE IMPLEMENTATION OF PORT STATE MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Nadi, Fiji, 28 August–1 September 2006



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PREPARATION OF THIS DOCUMENT

This is the final report of the FAO/FFA Regional Workshop to Promote the Full and Effective Implementation of Port State Measures to Combat IUU Fishing was held at the Fiji Mocambo Hotel in Nadi, Fiji, from 28 August to 1 September 2006.

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ABSTRACT

This document contains the report of, and the papers presented at the FAO/FFA Regional Workshop on the Implementation of Full and Effective Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing, which was held at Nadi, Fiji, from 28 August to 1 September 2006. The objective of the workshop was to develop national capacity and promote regional coordination so that countries will be better placed to strengthen and harmonize port State measures and, as a result, meet the requirements of relevant Regional Fishery Management Organizations (RFMOs) and implement the relevant tools of the 2001 FAO International Plan of Action on IUU Fishing and the 2005 FAO Model Scheme on port State measures to combat IUU fishing (FAO Model Scheme). The Workshop addressed: the role of the port State in combating IUU fishing and promoting long-term sustainability in fisheries; international developments relating to port State control; the FAO Model Scheme; issues and experiences in relation to port State measures at regional level; regional considerations and priorities of the Pacific Islands Forum Fisheries Agency (FFA); FFA regional operational issues; regional considerations and priorities of the West and Central Pacific Fisheries Commission (WCPFC); findings and conclusions of the field study on port State measures in select major Small Islands Developing States (SIDS) fishing ports in the West and Central Pacific region; case studies of port State measures and activities in some United States Territories; and case studies of successful port State controls and prosecutions. Working groups were formed to encourage skills development and maximum participation, and they considered three exercises: (i) identification of key IUU fishing problems in the region and how the FAO Model Scheme could be adapted or strengthened to address them; (ii) consideration of a fictitious situation where a foreign fishing vessel was suspected of having conducted IUU fishing and port State measures must be taken; (iii) development of regional standards based on the FAO Model Scheme in relation to legal requirements, information requirements and systems, inspection procedures and results of inspections, and a training programme. Funding and support for the Workshop were given by: the FAO FishCode Programme through its TrainFish Component, supported by the Government of Sweden and its SIDS component, supported by the Government of Japan; the FAO Regular Programme; the FFA; the WCPFC; the Western Pacific Regional Fisheries Management Council; and the Governments of the Federated States of Micronesia, New Zealand, Tokelau, Tonga, the United States of America and Vanuatu.

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)/Forum Fisheries Agency (FFA) Regional Workshop to Promote the Full and Effective Implementation of Port State Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing was held at the Fiji Mocambo Hotel in Nadi, Fiji, from 28 August to 1 September 2006.
2. The Workshop was attended by 27 participants from the Pacific Islands subregion and four resource persons. A list of participants and resource persons is attached as Appendix B.
3. The Technical Secretary of the Workshop, Ms Judith Swan, Senior Programme and Policy Officer, FAO Fisheries Department, Rome, Italy, called the Workshop to order, welcoming participants, resource persons as well as FAO and FFA colleagues. She introduced Dr Vili A. Fuavao, FAO Subregional Representative for the Pacific, Apia, Samoa, and invited him to address the meeting on behalf of Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries Department, Rome, Italy.
4. Dr Fuavao extended a warm welcome to participants, noting that the Workshop marked the beginning of a new era in FAO's efforts to promote the strengthening and harmonization of port State measures in parallel with the intensification of efforts by the international community towards that goal. He wished the meeting a full and very productive week as port State measures and the implementation of the FAO Model Scheme on Port States Measures to Combat IUU Fishing (FAO Model Scheme) were addressed. The statement is in Appendix D.
5. Ms Swan then invited Mr Feleti Teo, Director-General, Forum Fisheries Agency, Honiara, Solomon Islands, to address the meeting. He thanked FAO for the organization of the Workshop and expressed FFA's pleasure in collaborating with FAO on this initiative. He noted that the meeting was timely as it would lead into other regional meetings tasked to consider, among other things, the development of a regional scheme on port State measures for presentation to the third session of the Western Central Pacific Fisheries Commission (WCPFC), Apia, Samoa, in December 2006. Mr Teo's statement is in Appendix E.
6. Ms Swan invited participants, FAO and FFA staff, consultants and resource persons to introduce themselves to the Workshop. She then requested Mr Masanami Izumi, Workshop Coordinator and Fishery Officer, FAO Subregional Office for the Pacific Islands, Apia, Samoa, to explain administrative arrangements for the Workshop.
7. Ms Swan, in introducing the technical issues for the Workshop, noted that this was the first workshop of its type to be held under the TrainFish Component of FAO's FishCode Programme supported by the Government of Sweden. She added that it was a follow-on to the series of FAO IUU fishing workshops and, depending on the availability of resources, it was planned to hold similar workshops in other regions because of the increasing importance placed by the international community on port State measures to combat IUU fishing.

8. Mr Peter Graham, Legal Adviser, Ministry of Marine Resources, Rarotonga, Cook Islands, and Mr Eugene Pangelinan, Deputy Director, National Oceanic Resource Management Authority, Pohnpei, Federated States of Micronesia, were appointed as the Workshop Representatives.

9. The Agenda for the Workshop is attached as Appendix A and the list of documents is attached as Appendix C.

THE ROLE OF THE PORT STATE IN COMBATING IUU FISHING AND PROMOTING LONG-TERM SUSTAINABILITY IN FISHERIES

10. Dr David Doulman, Senior Fishery Liaison Officer, FAO Fisheries Department, Rome, Italy, presented a paper entitled "Role of the port State in combating IUU fishing and promoting long-term sustainability in fisheries". A copy of the paper on which his presentation was based is in Appendix F. The paper discussed a range of illegal, unreported and unregulated (IUU) fishing issues, noting that it was one of the most important impediments to achieving sustainable fisheries. The presentation traced the development of the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), a voluntary instrument concluded within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries.

11. It was noted that implementing the IPOA-IUU envisaged actions on a number of fronts, including by all States, flag States, coastal States and port States. In addition, the IPOA-IUU encouraged countries to implement internationally agreed market-related measures as a means of blocking trade in IUU caught fish. It was also pointed out that the IPOA-IUU promoted regional cooperation to combat IUU fishing by implementing region-wide standards and practices, including those relating to port State measures.

12. The Workshop was advised that the development of national and regional plans of action to combat IUU fishing (NPOAs-IUU and RPOAs-IUU) were important tools to combat IUU fishing because they enabled countries and regional fishery bodies (RFBs) to elaborate comprehensive and coherent strategies to address IUU fishing. The process also enabled policy and operational gaps to be identified and for remedial action to be taken

13. The presentation also reviewed briefly the evolution of port State measures in support of fisheries conservation and management. Instruments discussed included the 1982 Convention, the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement, the FAO Code of Conduct for Responsible Fisheries and the IPOA-IUU. FAO's process for the development of the Model Scheme on Port State Measures to combat IUU fishing was outlined and the possibility of the international community agreeing on the elaboration of a binding instrument on port States measures was noted.

14. The type and scope of port State measures incorporated into some NPOAs-IUU were discussed vis-à-vis paragraphs 52 to 64 of the IPOA-IUU. A number of generalizations were drawn from the information contained in Appendix B to the paper. The presentation also touched on IUU fishing in the Pacific Island Subregion, noting that countries had a sound track record on regional cooperation on fisheries matters, including the implementation of measures to combat IUU fishing. Regional practices designed to combat IUU fishing initiated before the conclusion of the IPOA-IUU were consistent with, and reinforced, the provisions of that instrument.

15. In discussion, the issue of a definition of “port of convenience” was raised. It was pointed out that like the term “flag of convenience”, there was no formal definition. However, in practice, a “port of convenience” was one that did not exercise controls over the landing of fish, either for transshipment or for sale.

16. With respect to the slow rate of development of NPOAs–IUU the question was posed as to what steps could be taken to encourage developed countries to elaborate NPOAs–IUU, especially those countries that had important distant water fishing fleets. It was explained that FAO encouraged all countries to develop NPOAs–IUU because of their inherent benefits and importance in combating IUU fishing. It was stressed that NPOAs–IUU enabled countries to outline transparent and coherent policies and measures against IUU fishing, consistent with the IPOA–IUU.

17. Concerning the terminology of “IUU fishing”, the view was expressed that confusion over the use of the term sometimes arose. It was added that in many instances, “IUU fishing” meant simply “illegal fishing”, which was clearer in concept and definition than “unreported and unregulated fishing”. The Workshop was advised that the IPOA–IUU provided a comprehensive definition for IUU fishing in paragraph 3. It was noted that “unregulated fishing” was also a governance issue and one that should be addressed.

18. The question was raised as to whether countries should have NPOAs–IUU as a prerequisite to implementing the Model Scheme. It was explained that while it would be desirable to have NPOAs–IUU in place, implementation of the Model Scheme was not dependent on the existence of a NPOA–IUU. Both initiatives could be pursued in tandem or, as the case might be, in a sequential manner.

19. The linkage between IUU fishing and trade was discussed, including the use of catch documentation schemes. It was noted that the IPOA–IUU urged port States not to grant entry to vessels that had engaged in IUU fishing. This was an attempt to prevent IUU caught fish entering trade. It was also explained that catch documentation schemes, such as those already introduced by tuna bodies, were not contrary to World Trade Organization (WTO) rules.

20. On the effectiveness of catch documentation schemes, the view was expressed that they had been effective in reducing the trade in IUU caught fish from the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) area. A new conservation measure on trade was currently under development for CCAMLR. It was likely to be based on a similar measure adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and would be considered at the next CCAMLR meeting in November 2006. It was pointed out that the use of a document scheme was on the agenda for the 2006 session of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC).

21. The Workshop was reminded that the regionally agreed minimum terms and conditions (MTCs) were in force among FFA member countries and that these generally supported action by port States. However, while starting from this firm base, it was noted that coordination of port State measures among countries would be desirable. It was pointed out that Lacey Act type provisions could be of great importance in combating IUU fishing in the Pacific Islands.

22. Participants from five countries (Kiribati, Niue, Palau, Papua New Guinea and Samoa) expressed interest in developing NPOAs–IUU but indicated that technical assistance might be required in some cases. It was recalled that a model plan for a NPOA-IUU had been developed for the Pacific Islands and it could be adapted to meet the needs of most countries. Upon request, FAO, within its available resources, stood ready to assist countries develop their NPOAs–IUU.

PORT STATE CONTROL – INTERNATIONAL DEVELOPMENTS

23. The intensified global attention to the pivotal role of the port State in combating IUU fishing was addressed by Ms Swan. Her paper is appended as Appendix G. She explained how the way forward in the battle against IUU fishing had become clearer as countries continued to progressively strengthen the role of the port State through international instruments and initiatives to strengthen and expand regional governance. The synergies between port State measures and other key compliance tools were highlighted by considering linkages with international and regional information systems, trade and market-related measures and flag State responsibilities. Ms Swan described the surge of support by the international community in the UN system and by ministerially led initiatives/meetings for a two-track approach to implement the FAO Model Scheme; and in parallel develop a binding international instrument.

24. In discussion, the issue of possible benefits offered by a binding instrument on port State measures was raised. On the one hand, the FAO Model Scheme provided a good starting point with minimum standards for countries and regions to move forward and harmonize measures with some flexibility. A binding instrument would require the agreement of many countries. On the other hand, it was noted that the FAO Model Scheme, while a catalyst for international action, was developed by participants from certain countries in a three-day technical consultation. The development and acceptance by a larger number of countries of a binding instrument based on the FAO Model Scheme and mindful of the binding nature of port State controls for the merchant fleet, could offer the opportunity of incorporating more universal standards and reflect the needs and strengths of regional schemes currently being developed. The support of the UN System for the two-track approach was noted, including in the United Nations General Assembly and the 2006 UN Fish Stocks Review Conference, and by two recent Ministerial-level meetings. The elements of a two-track approach were discussed.

25. In developing schemes or instruments for port State measures, it was considered that the grounds upon which suspected IUU vessels could be detained, released and prosecuted needed to be clear. In this regard it was noted that procedures in regional fishery management organizations or arrangements (RFMOs) to blacklist vessels should be taken into consideration and should, as appropriate, incorporate due process to allow the vessel or flag State to respond to the grounds for belief that the vessel had been involved in IUU fishing.

26. It was noted that there is likely to be a significantly increased focus on the issue of security in port State measures in the future, on a global basis.

THE FAO MODEL SCHEME ON PORT STATE MEASURES AND REGIONAL APPROACHES

27. Mr Terje Lobach, FAO Consultant, gave a presentation on the FAO Model Scheme. He provided the background which included references to port State measures in different global instruments and described the process of developing the Model Scheme within FAO. He described the elements of the FAO Model Scheme, focusing on the scope/application, prior notification requirements, possible reactions based on such a notification, formal requirements for inspections, execution of inspections, actions related to IUU fishing and exchange of information. A copy of the paper on which his presentation was based is in Appendix H.

28. In discussion, the application of port State measures to black listed vessels was raised. It was noted that blacklisting procedures could vary. For example, where flag States have been offered the opportunity to explain the vessel's situation prior to blacklisting, and no explanation was forthcoming prior to blacklisting, stringent port control measures would be in order.

29. It was noted that the FAO Model Scheme was a non-binding instrument containing minimum standards. In this regard, it was emphasized that port States and RFMOs are free to adopt stricter standards and the right to do so could be safeguarded by including a specific clause on that point in the relevant Scheme.

30. Examples of relevant legislation of some FFA members countries were noted, such as the prohibition on landings and transshipments where RFMO measures had been undermined.

PORT STATE MEASURES, ISSUES AND EXPERIENCES AT REGIONAL LEVEL

Commission for the Conservation of Antarctic Marine Living Resources, Northwest Atlantic Fisheries Organization, North East Atlantic Fisheries Commission and Southeast Atlantic Fisheries Organization

31. Mr Lobach made a presentation on port State measures at regional level, focusing on measures established by CCAMLR, the Northwest Atlantic Fisheries Organization (NAFO), the North East Atlantic Fisheries Commission (NEAFC) and the Southeast Atlantic Fisheries Organization (SEAFO). The presentation is included in Appendix H. A description of general regional measures and schemes was provided, as well as current specific measures with linkages to port State obligations, such as non-Contracting Party schemes, black- and white-listing of fishing vessels and catch documentation schemes.

32. With respect to the black-listing of fishing vessels, it was noted that this had now become a common practice around the world. Currently, a total of 85 States through their participation in RFMOs have such measures in place. The similarities and common standards for the establishment and maintenance of both black- and white-lists as well as the consequences of being/not being on respective lists, including the obligations for port States was explained.

33. The presentation reviewed the implementation of the FAO Model Scheme at regional level, in particular in NEAFC. It was noted that NEAFC had introduced a new approach by requiring confirmation by the flag State that the catch to be landed or transshipped were fished within quota (if applicable), in the area declared and that catches are reported and calculated.

34. The presentation outlined an example of implementing port State measures in domestic legislation.

Indian Ocean Commission MCS Programme

35. The paper prepared for the Workshop by Mr Neil Ansell, Chief Technical Officer, MCS Programme, Indian Ocean Commission (IOC), Mauritius, was delivered by Mr Colin Brown, FAO Consultant, Cook Islands. A copy of the paper is in Appendix I. It described the pilot project for monitoring, control and surveillance (MCS) in the Western Indian Ocean (WIO), with an emphasis on port State measures. The paper set out operational considerations for MCS in the WIO. It also noted similarities between the IOC and WCP regions, where large pelagic resources (tuna and tuna like species) constituted the single largest marine resource at the disposal of Small Island Developing States (SIDS). Long-term sustainable management was of critical importance to the SIDS and to the dependent markets, and the importance of MCS to the management of the resource was underlined. It was estimated by IOTC that up to 20 per cent of large pelagic catches could be from IUU fishing activities.

36. A review of MCS capacity in the WIO showed three key problem areas: the laws of IOC States required strengthening, sovereignty over certain islands was being contested and mechanisms to facilitate regional cooperation in MCS information were not sufficiently developed. In the first phases of the pilot project, an assessment into port State capabilities took place in all IOC countries, looking into the following areas: port State control, documentation, pre-boarding, boarding, legal framework, prosecutions and citations, data, information systems and data handling and reference material/guidelines. As a result, one of the outcomes would be strengthened national/regional information systems and training. To address this, the Fisheries Information and Statistical System (FINSS), currently under development, will be used for all aspects of port inspections. The components and linkages of the FINSS system were outlined and the potential for adaptation of the system to the WCP region was noted.

Discussion on regional fishery bodies and the IOC MCS Programme

37. The two major ports in the WIO region were in Seychelles and Mauritius. Approximately 70 percent of landings from longline vessels were caught outside the region, and this created problems for monitoring at port. A related concern was the need for interregional cooperation in order to trace fish caught in the WIO region but landed elsewhere.

38. In this regard, it was noted that this was one reason why the international community called for a binding legal instrument on port State measures. It would allow a comprehensive information system to be established that would provide information on landings outside the region where the fish were caught.

39. The potential benefits of catch documentation schemes (CDS) to support port State measures and implemented in “market” States was considered. However, it was noted that it was impractical to extend CDS such as that adopted by CCAMLR to all species because it involved processing too much information for a species that did not have the high value or conservation status of toothfish.

WCP/FFA REGIONAL CONSIDERATIONS AND PRIORITIES

40. Dr Manu Tupou-Roosen, Legal Officer, Pacific Islands Forum Fisheries Agency, Honiara, Solomon Islands, presented a paper entitled “FFA regional considerations and priorities”. A summary of this presentation is in Appendix J. The presentation focused on the relevant FFC decisions relating to the development of a port State Scheme under the Western and Central Pacific Commission (WCPF Commission).

41. It was noted that at the sixty-first meeting of the Forum Fisheries Committee (FFC 61), Members were reminded of their obligation to the WCPF Commission to provide a report on their port State measures, and in particular how these measures reflected the FAO Model Scheme. A reporting template (based on a template developed by New Zealand) was sent to member countries to assist them in fulfilling this obligation. A copy of this template was also provided to the participants during the Workshop, and is attached in Appendix K. In addition, it was noted that FFC 61 was provided with a preliminary study on the status of port State measures in the FFA member countries. This study revealed that several member countries’ legislation did not incorporate key port State actions. However, this study was qualified in that it was based only on the legislation publicly available at the time, and it was therefore possible that policy or recent amendments to legislation in some countries did accommodate key port State actions. A copy of this study was provided to the participants.

42. The presentation also provided a brief background on the relevant regional and subregional agreements developed by FFA member countries, namely the FFA Convention, the Harmonised Minimum Terms and Conditions for Access by Foreign Fishing Vessels (MTCs), the Treaty on Fisheries between the Governments of Certain Pacific island States and the United States of America (the US Treaty), the Agreed Minute on Cooperation in Surveillance and Enforcement between the Parties to the US Treaty, the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region, the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, the Palau Arrangement for the Management of the Western Pacific Purse Seine Fishery, the Federated States of Micronesia Arrangement for Regional Fisheries Access.

43. It was noted that these agreements and initiatives provided a well-developed framework on port State measures and common themes. The legal issues that FFA member countries faced in implementing port State measures were highlighted. These included gaps in legislation. Problems and constraints that FFA member countries faced in implementing the FAO Model Scheme were also highlighted, such as the need for fisheries administrations to coordinate more closely with line agencies.

44. The question was raised as to whether Parties to the Niue Treaty needed a subsidiary agreement in order to exchange information. It was explained that Parties to the Niue Treaty did not require a subsidiary agreement to exchange information, and that an example of this

was the FFA vessel monitoring system (VMS) Sharing Agreement. A FFA member country could sign the FFA VMS Sharing Agreement to share its VMS data with other FFA member countries. In the discussions, it was clarified that VMS data was confidential and belonged to the coastal State.

45. It was noted that foreign fishing vessels had to be registered on the FFA Vessel Register before they could be licensed by a FFA member country to fish in its waters. It was further noted that deregistration from the Register, where a vessel had committed IUU fishing in the waters of FFA member countries, had proved to be an effective compliance tool.

46. In the discussions, it was noted that countries may address some aspects of port State control through administrative measures rather than legislation. However, license conditions should be incorporated in domestic legislation. The FFA Vessel Register deregistration procedure was described and its effectiveness as a compliance tool was noted.

FFA REGIONAL OPERATIONAL ISSUES

47. Mr Lamiller Pawut, Surveillance Operations Officer, Pacific Islands Forum Fisheries Agency, Honiara, Solomon Islands, made a presentation on the operational issues confronting FFA members. He outlined the fishing profiles of FFA members, including the databases used at the FFA Secretariat in support of MCS. He concluded with an overview of the FFA MCS training programmes.

48. The presentation outlined the challenges faced by FFA member countries to conduct efficient and effective surveillance and enforcement. The FFA region which covered an area of 30 million square km placed members in a vulnerable position due to lack of surveillance platforms to combat and eliminate IUU fishing. The FFA members (excluding Australia and New Zealand) had a total of 22 patrol boats donated by the Australian Government. Other physical surveillance support to the region was the “Regional Aerial Surveillance Programme” funded by the Royal Australian Air Force (RAAF), Royal New Zealand Air Force (NZAF), France Armed Forces and the US Coast Guard and Navy.

49. The presentation covered the various fishing fleets operating in the FFA region derived from the FFA Vessel Register. As at the end of July 2006, the FFA Register had 1,154 fishing vessels in “good standing”. These fishing vessels comprised 772 longline vessels, 192 purse seine vessels, 124 fish carriers, 38 pole-and-line vessels, and 18 bunker vessels. By flag, there were 234 Japanese, 285 Taiwanese, 121 Chinese, 174 Korean. One hundred and sixty vessels were flagged in certain Pacific Island States while 179 were flagged in other countries. The “other flag” category included some countries known as flag of convenience countries which included Panama, Belize and Saint Vincent and the Grenadines.

50. The fishing activities of different types of fishing vessels were also highlighted. These were based on VMS plots in the FFA region. The slides revealed clear signatures of vessels’ operations, which included purse seiners, longliners, carrier vessels and bunker vessels. The plots linked them to ports of transshipments in the region and which included Majuro (Marshall Islands), Phonpei (Federated of Micronesia), Wewak, Madang, Rabaul, Kavieng and Manus (Papua New Guinea), Suva (Fiji), Tarawa (Kiribati) and Honiara (Solomon Islands). From the data provided by SPC a total of 1 131 and 1 238 transshipments were conducted in designated ports in 2004 and 2005 respectively.

51. The second part of the presentation discussed the databases managed by the FFA Secretariat in support of fisheries MCS. These included the:

- FFA Vessel Register;
- Vessel sightings;
- People and Organizations (POD);
- Observer reports (OBS);
- Vessel activity and catch (US Treaty and FSMA);
- Violations and prosecutions (VAP);
- Fisheries agreements and licences (FAL); and
- Vessel monitoring system.

52. It was noted that two MCS related websites had been developed to assist MCS practitioners. The objectives of the website were to:

- promote the concept of the cooperative sharing of resources and information for the mutual benefit of members involved in regional MCS and border protection activities;
- promote the availability of FFA and other resources to assist members in the development of MCS and Border Protection capabilities; and
- provide a collaborative environment for MCS representatives to consider their own "playing field".

The Web sites can be accessed at: <https://www.ffa.int/mcs/node/91> and <https://www.ffa.int/mcs/node>.

53. Finally, the presentation covered the training provided by the FFA Secretariat to assist its members. The objective of this training was to enhance the capacity of officers responsible for MCS in the FFA member countries to effectively conduct their roles and functions. The training sessions included:

- Prosecution and dockside boarding workshops;
- Enforcement training;
- Observers training;
- National fisheries officers surveillance course (AMC/FFA);
- MCS and legal fellowships;
- VMS training;
- Licensing officers' workshops; and
- Operations training.

54. In the discussions, the question was asked whether FFA linked with other bodies to exchange information on vessels that were in the process of being blacklisted or deregistered. It was explained that there was no formal arrangement regional fishery bodies. However, it was noted that the idea of developing a global list of IUU fishing vessels was being discussed by tuna RFMOs. It was further noted that the FFA Vessel Register and the deregistration procedures were developed by FFA primarily as a compliance tool.

WCPFC REGIONAL OPERATIONAL ISSUES

55. Dr Martin Tsamenyi, WCPFC Secretariat, Legal Services Provider, presented a paper entitled "WCPFC regional operational issues." A copy of the paper which formed the basis of

this presentation is in Appendix L. The paper summarized relevant aspects of the WCPF Convention, including a brief historical background, membership, the roles of the Commission, the Scientific Committee and the Technical and Compliance Committee. The presentation also provided information on the fleet profiles of the non-FFA members of the Commission and Cooperating Non-Members. The various initiatives being implemented by the WCPFC to combat IUU fishing and port State measures and other relevant WCPFC measures were also highlighted.

56. The presentation discussed Article 27 of the WCPF Convention dealing with Port State measures. It was pointed out that the primary responsibility for State measures rested with Parties to the Convention as ports fell exclusively within their sovereignty. The port State powers identified included inspection of documents, fishing gear and catch on board the vessels and transshipment, prohibition of landing and application of additional measures in accordance with domestic law and policy.

57. The presentation also noted that the WCPF Convention enshrined key safeguards against abuse of port State. The safeguards highlighted, which were consistent with the provisions of the 1995 UN Fish Stocks Agreement, included requirements that port States must not discriminate in form or in fact against fishing vessels of any State; that vessels must have voluntarily entered into port or offshore terminal of the Port State and that port State regulations must relate to the implementation of the regional, sub-regional and global conservation and management measures.

58. The presentation noted the IUU fishing concerns in the WCPFC region and outlined the measures being considered by the WCPFC to combat IUU fishing and to ensure the implementation of the conservation and management measures adopted by the Commission. The major initiatives highlighted included the 2004 Commission Decision on the Establishment of the Record of Fishing Vessels and Authorization to Fish which, among other things, prohibited port landings and transshipment within the Convention Area by vessels not listed on the Record of Fishing Vessels. Attention was also drawn to the 2005 Commission Decision to adopt the FAO Model Port State Scheme as a basis to develop the WCPFC Harmonized Port State Scheme. Other issues highlighted during the presentation included the on-going work of the WCPFC on regulation of transshipment, the regional observer programme and the implementation of a satellite vessel monitoring system. The presentation noted that these issues would be the subject of discussion at the 2006 Technical and Compliance Committee and Commission meetings.

59. The presentation highlighted the need to view port State measures as an integral part of the overall MCS framework to be adopted by the Commission such as VMS, regulation of transshipment and observer programmes. It was also pointed out that integration should occur not only at the Commission level, but also between the Commission's measures and those adopted and implemented by FFA members and other coastal State members of the Commission.

60. The discussion that followed the presentation addressed a number of issues. Some participants highlighted the resource constraints imposed by the decisions of the Commission. The need for compatibility between the MCS measures was addressed and it was noted that coastal States may adopt at anytime more stringent MCS measures, including port State requirements, than those set out in a regional scheme. The Commission's observer programme and its relationship with national observer programmes was also discussed.

FINDINGS AND CONCLUSIONS OF THE FIELD STUDY ON PORT STATE MEASURES IN SELECT MAJOR SIDS FISHING PORTS IN THE WESTERN CENTRAL PACIFIC REGION

61. Mr Brown presented a summary of the findings and recommendations from the FAO field study he had undertaken recently on port State measures in select major fishing ports in the Western Central Pacific region. His report is in Appendix M. The consultant advised the meeting that in many respects, the port States covered in the study, Federated States of Micronesia, Fiji, Papua New Guinea and the Republic of Marshall Islands had port enforcement schemes that exceeded minimum standards established in the FAO Model Scheme. He explained that this was largely due to the implementation by all FFA member countries of regionally harmonized minimum terms and conditions for fishing access. These measures included the requirement for vessels to be VMS compliant, in good standing on the FFA Regional Register, and to be compliant with licensing conditions including those relating to reporting regimes. Many FFA member countries had also implemented fisheries management legislation that incorporated principles established by international fisheries related agreements including the UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement.

62. While the study revealed many areas of strength, it was noted that port State enforcement mechanisms required further enhancement including information management, training and regional MCS cooperation.

63. Mr Brown impressed upon participants the urgent need for FFA member countries to strengthen their information management systems to ensure that fisheries management and in particular MCS, was under-pinned with accurate and timely information. This could be achieved by linking all MCS related databases both at the national and regional levels including the linking of registry, license, catch and effort, inspection and prosecution information. It was underlined that the sharing of MCS related information between port States was of critical importance to the effective management of regional fisheries.

64. In relation to discussion on the use of electronic catch and effort reporting, it was considered important for inspection purposes that paper records be retained on board a vessel. It was also noted that the requirement for electronic reporting could pose problems for non-English speaking masters since there was currently an issue in some countries with paper log books not being in English. Mr Brown noted that the minimum standard in the region was that catch and effort logs be in English. He further noted that electronic reporting was currently required in other regions and that problems associated with language and data input could be overcome with the development of appropriate software.

65. In the area of training, it was noted that there was a need to establish a regionally standard programme for enforcement officers and that the current FFA Dockside Boarding and Course could be used as the basis for such a programme to provide regionally certified inspectors. Training was considered to be of high priority and support for such training was requested from FAO.

CASE STUDY/STUDIES OF SUCCESSFUL PORT STATE CONTROLS – PROSECUTIONS

66. Mr Paul Ortiz, Senior Enforcement Attorney, NOAA Office of General Counsel, Pacific Islands Region, USA, gave a presentation entitled “Experiments in port State measures: NOAA’s efforts to increase monitoring, control and surveillance capacity and international coordination”. The presentation focused on efforts by NOAA to increase its MCS capacity through RFMO measures and internal measures. The presentation also discussed NOAA’s use of the Lacey Act to increase international coordination, and provided a case example on how international cooperation and the Lacey Act resulted in a significant prosecution of a major fish dealer.

67. It was noted that NOAA pursued measures at various RFMO meetings that were designed to increase its national capacity to pursue MCS activities. These measures included the need for strong boarding and inspection requirements, effective rights and protections for observers, VMS and catch documentation schemes.

68. The presentation identified the importance of catch documentation schemes in imposing pressure on IUU fishers by requiring a statement in respect of the fish that would necessarily be a false statement if it was not declared as IUU-caught fish. Such statement could be used as the basis for prosecution. Such a requirement may influence an operator’s decision to conduct illegal activities, and the submission of false documents could be used to prove intent in criminal cases. In addition, paperwork violations, including failure to submit documents and falsifying data on documents, were often significantly easier to prove than illegal fishing effort. The presentation noted that future RFMO action should consider the use of electronic catch documents to reduce the paperwork burden on port States and reduce the opportunity for filing false documents. The recent CCAMLR electronic catch documentation scheme could be used as a model for other RFMOs.

69. The presenter queried whether RFMOs and port States should increase the use of trade sanctions on IUU fishing operators, and fish product that came from vessels flying flags of convenience (FOC), or that was transshipped through known ports of convenience (POC). Participants were asked to consider what factors might go into a FOC/POC determination, and whether the use of such trade sanctions might be preferable to trying to eliminate IUU fishing by enforcement actions against individual operators/owners.

70. The presentation also identified several internal measures that a port State could implement to increase its MCS capacity. These measures included the implementation of a fund dedicated for MCS use and funded by penalties received from enforcement actions, the enactment of administrative penalty authorizations that were based on a strict liability standard and ease the evidentiary burden for the port State, requiring all imports to have hired an agent in the port State, VMS requirements that were more stringent than RFMO VMS requirements if they were found to be deficient, and mandatory electronic documentation scheme participation even if the RFMO did not require it.

71. Mr Ortiz also provided a review of the catch document “pre-approval” process now required by the U.S. for importations of CCAMLR species. The pre-approval benefits the industry by reducing the likelihood of port delays and fees while the catch documents were reviewed, and benefits the inspectors by providing time to review documents and seek

additional information prior to the arrival of the product. The US Government required importers to pay for the service at the rate of US\$200 per import.

72. It was noted that CCAMLR recently posted a 75 percent reduction in sighted IUU fishing operations in the Convention Area which may be the result of the stringent RFMO and internal requirements for the fishery.

73. With regard to increasing regional coordination, the presenter provided an overview of the US experience with its port State enforcement statute – the Lacey Act – and the presenter’s consultancy to design a model port State enforcement statute for consideration by all nations. Special mention was made of the history of the Lacey Act, as well as the prohibitions on trafficking and false labeling of illegally taken wildlife and the expansive definitions contained in the Act that made it so flexible and effective for fishery prosecutions. The presentation detailed how the Lacey Act prohibitions were based initially on an illegal taking of fish in the jurisdiction of another nation (the “underlying violation”) which was then imported into the United States of America. The underlying violation must be resource related, and the US worked closely with the aggrieved nation to prove the violation and provide support for the prosecution.

74. The presenter detailed an earlier consultancy with the FFA, as well as a more recent consultancy with the Ministerially-led Task Force on High Seas Fishing, that resulted in papers containing the framework for a model port State enforcement statute based on the most effective aspects of the Lacey Act and the experience of the US Government in enforcing that statute. The terms of this model statute could be considered by any nation seeking to implement a port State enforcement law, and provided specific language and justification for its various terms. The model statute also recommended authorizing significant sanctions to ensure compliance. A copy of this paper was available in the “document” section of Task Force website (www.high-seas.org).

75. A case example of international coordination was presented that detailed the cooperation and level of resources required used in the joint South Africa – USA cases against Hout Bay/Ice Brand for illegal taking and trafficking of lobster and Patagonian Toothfish. The case study detailed the level of investigation, the types of violations and the eventual results of the cases. Special mention was made of training in basic corporate accounting and finances that would aid investigations of corporations, and the need for training in the protocols of seizing and preserving computer equipment for evidence. The presenter also noted the sensitivity involved with such cases as government corruption supporting the illegal activity of the company had to be addressed.

76. In addition, Mr Ortiz made a further presentation entitled “International monitoring, control and surveillance network for fisheries related activities”. The MCS Network was an arrangement of national organizations/institutions in charge of fisheries-related MCS activities, which had been authorized by their countries, to coordinate and cooperate in order to prevent, deter and eliminate IUU fishing. The Network provided an efficient and quick resource for MCS officials to contact their counterparts in other Network nations as an aid to investigations and gathering intelligence. The Network improved the efficiency and effectiveness of MCS activities through enhanced cooperation, coordination, information collection, and information exchange. There were currently 39 members of the Network, including most nations in the Pacific Island and the FFA.

77. The view was expressed that countries might consider penalty sharing provisions when enacting Lacey Act type laws. It was noted that while the US Government had pursued many Lacey prosecutions from underlying violations in FFA member countries, it did not have the statutory authority to distribute any of the penalty money or forfeited catch proceeds. It was also noted that CCAMLR had a fund for MCS that could accept monies from national prosecutions. It was explained that there were examples of penalty sharing provisions in the Lacey Act type fisheries laws of several FFA member nations.

78. A discussion was held on the role of observers in compliance cases and whether the US Government and others considered their observers to be on the vessels solely for scientific reasons or for compliance as well. The US Government used information collected by observers as evidence, but does not consider them to be compliance observers. It was noted that prosecutors could exercise discretion in using evidence gathered from observers when the same information was available from other sources. It was also noted that the FFA was considering a “hybrid” observer scheme for the WCPFC where an observers had both scientific and compliance competencies.

79. Mr Ortiz responded to a question about the process for catch seizure and forfeiture in US prosecutions. It was noted that catch was generally sold into the normal stream of commerce as soon as possible and then the proceeds from the sale became the basis for the forfeiture action. The difficulties in seizing a fishing vessel were also discussed, and New Zealand explained that they bond out the vessels to avoid such difficulties.

APPROACHES TO IMPLEMENT THE FAO MODEL SCHEME IN KEY WCPFC DEVELOPED MEMBER COUNTRIES AND COOPERATING NON PARTIES

80. Mr David Marx, Senior International Advisor, Ministry of Fisheries, New Zealand, made a presentation entitled “An overview of New Zealand’s approach to port State measures”. A summary of this presentation is attached as Appendix N. The presentation described how fisheries management objectives and related management, science and MCS frameworks were strongly interdependent, and how the implementation of effective port State measures within the MCS “toolbox” was critical to achieve fisheries management objectives. A comparative analysis of New Zealand’s port State measures against the FAO Model Scheme was presented, and the process used to conduct this assessment. A number of additional measures were identified and discussed.

81. In addition, Mr Marx gave a practical example that demonstrated how New Zealand utilised its prior approval process combined with other port State measures to ensure that the fish being landed in New Zealand ports by foreign fishing vessels were not taken in an IUU manner. This prompted discussion around the requirement for vessels to use VMS and how this could successfully be utilised as one of the tools to ensure catches are taken legitimately.

82. Some discussion also took place regarding the implementation of a robust port State scheme where it was necessary to coordinate across a number of agencies particularly in terms of obtaining or disseminating technical information. It was reflected that some States might have difficulties with this issue given the number of agencies that are engaged in port State work in their jurisdictions.

83. Another point highlighted was a need for continual improvement and development of port State measures once they were implemented as IUU fishers would look to change their behaviour and approach to circumvent controls that may restrict their ability to operate. Capacity development, harmonisation and close cooperation as a region were suggested as mechanisms that might assist in this regard.

84. Also discussed was the issue of vessels that seek to avoid utilising port States with robust measures such as the compulsory carriage of VMS reporting to the port State as well as the potential negatives that may be linked to this. It was pointed out that being a responsible port State may offer a competitive advantage in a number of markets as some consumers now seek out fish which they know has been taken in a legal and sustainable manner.

CASE STUDY: PORT STATE MEASURES AND ACTIVITIES IN US TERRITORIES AND APPLICATION OF THE FAO MODEL SCHEME

85. Mr Sylvan Igisomar, Director, Division of Fish and Wildlife, Commonwealth of the Northern Marianas (CNMI), in his presentation on port State measures in the CNMI to combat IUU fishing, noted that all vessels in the Commonwealth of the Northern Mariana Islands have agents that submit all the preliminary required documents for the vessels prior to the vessels arrival. The information was provided to the Commonwealth Ports Authority (CPA) for purposes of planning (eg. to schedule where the vessels was to berth, duration in port, etc). Thus, the actual clearing house effect is derived from the US Coast Guard.

86. He added that, to enter the CNMI, all vessels must undergo five steps. They must first inform the USCG at least 96 hours before the vessel arrives. The Coast Guard may require boarding the vessel themselves for inspections before it is allowed to enter the harbor. The vessel must also inform the CPA of the vessel's arrival/departure time and provide other documents such as vessel particulars (for purposes of berthing arrangements), Certificate of Financial Responsibility (COFR), and International Oil Pollution Prevention Certificate. He pointed out that the vessel must then inform other CNMI Government Agencies for inspection of the vessel and crews. Such agencies would include Public Health, Division of Quarantine, Division of Immigration, and the Division of Customs. The vessel or owner must also arrange for a pilot to bring the vessel into or out of the harbor. Finally, the vessel agent must arrange for other things the vessel might need such as fuel bunkering, transportations, replenishing of provisions and others.

87. With respect to IUU fishing, Mr Igisomar advised the Workshop that in the early March 2006, the Chuen Fa Sheng (a Taiwan longliner) was caught illegally fishing in the CNMI. The owner was charged in violation of the Magnuson-Stevens Fishery Conservation and Management Act. A settlement was agreed on at \$290 000 and was paid in full. Through Pacific Insular Area Fisheries Agreement (PIAFA), CNMI was able to receive a portion of the settlement. The settlement also mandated the owner of the vessel to install a permanent VMS system on board the vessel.

88. Mr Igisomar went on to say that as a US Territory, CNMI is dependant on USCG and NOAA to police and enforce IUU fishing in the EEZ. In early 2005, CNMI and NOAA entered into a Joint Enforcement Agreement, whereby Enforcement Officers of the Division of Fish and Wildlife were deputized to enforce Federal Laws as well to fish in the CNMI, foreign fishing vessels must obtain a foreign fishing permit from NOAA.

89. Following the presentation, information was provided on Guam's experiences and some discussions of the US Territories activities as members of the Western Pacific Regional Fishery Management Council. It was noted that as far as monitoring and enforcement was concerned, the situation was quite good.

90. A question was raised regarding the reasons for imposing a VMS installation requirement on the Taiwan vessel. It was pointed out that it was important to monitor the vessel and for other purposes. An additional requirement, as part of the settlement, was that the vessel switched from using long lines to chain hooks.

91. In discussion, the effectiveness of requiring a vessel to install VMS as a condition of settlement was described and the issue of monitoring its location when it left the jurisdiction was discussed. The successful practice of securing the flag State cooperation in certain cases was noted but in a case contested by one flag State, the International Tribunal on the Law of the Sea held that it was unreasonable under the 1982 Convention on the Law of the Sea to require VMS installation and operation as a condition of bond.

92. It was suggested that requirements for entry into port should include compliance by the vessel with penalties from other jurisdictions.

FORMATION OF THE WORKING GROUPS AND THEIR REPORTS ON CONCLUSIONS AND RECOMMENDATIONS

Practical application of port State measures

93. Three Working Groups were formed to enhance the participatory nature of the Workshop as a means of generating broader and deeper discussion on concepts and issues relating to port State measures.

94. The objective of the first Working Group exercise was to apply the information presented in the Workshop in order to facilitate an effective and coordinated approach to strengthening and harmonizing port State measures in the Pacific Islands. The composition of the Working Groups is attached as Appendix O.

95. Each of the Working Groups considered the following issues:

- The main IUU fishing problems in the region that can be addressed by port State measures;
- Gaps in the implementation of the FAO Model Scheme;
- Constraints and solutions to overcome identified gaps;
- The process for adapting and strengthening the FAO Model Scheme in the Pacific Islands; and
- Key linkages between port State measures and other compliance tools.

The reports of the Working Groups are shown in Appendix P.

96. Three commentaries were made on the conclusions of the Working Groups. In his commentary on the Working Groups, Dr Transform Aqorau, Legal Counsel, FFA, Honiara, Solomon Islands, noted that there was a need to improve interagency cooperation amongst the different authorities involved in port state enforcement. He noted that FFA had secured a

project under Canadian funding in the mid-1990s to improve interagency cooperation and coordination of MCS activities, both nationally and regionally. Dr. Aqorau reiterated that the FAO Model Scheme provided the basic premise for the region to develop its own port State enforcement scheme. He noted that generally FFA Members had comprehensive legislation that empowered them to exercise port State enforcement. These included the power to board and inspect vessels both at sea and in port. However, since the FAO Model Scheme had only been developed recently, it would take some time for legislation to be amended to provide for a comprehensive framework that would allow for the effective implementation of a port state enforcement scheme that encompasses elements of the Model. Dr. Aqorau stressed that port State inspections were the most cost-effective means of enforcing fisheries laws and regulations and conservation and management measures adopted by RFMOs. He stated that in this respect, the FFA Secretariat had been conducting dockside boarding and inspection workshops aimed at teaching enforcement and fisheries personnel about, inter alia, the procedures to collect evidence to detect IUU fishing. Finally, he pointed out that too often countries felt that they did not have the capacity to carry out port State enforcement. He encouraged the countries to ensure that they board vessels when they come into port because there was no better way of checking on these vessels to ensure that they were complying with conservation and management measures.

97. Dr Doulman in his commentary on the reports of the Working Groups noted that the issues had been treated in a comprehensive manner and that the reports showed a good understanding of the complexities of IUU fishing and the need to implement effective port State measures. He observed that to deter IUU fishing, sanctions should be sufficiently high to act as a disincentive. He stressed the need for countries to act in concert so that there were no weak links in the subregion: this required ongoing harmonization of measures to ensure that one port State, for example, did not undermine the work of others. Dr Doulman referred to the problem of interagency coordination at the national level, an ongoing problem in many countries, and urged that these problems be addressed. He underscored the need to ensure that there were regular, short briefs for senior management and ministers as a means of ensuring support for ongoing work. He noted that all fishing vessels had the potential to engage in IUU fishing and that national as well as foreign vessels should be kept under review. He highlighted the importance of human resource development and institutional strengthening to address IUU fishing, noting that it was an ongoing issue that at times could be frustrating. Dr Doulman stressed that port State measures was one of the most cost-effective means of combating IUU fishing and that countries should seek to use these measures to the greatest extent possible. Finally, he pointed out that in combating IUU fishing, countries should look to their own solutions in the first instance. He added that, while countries must continue to promote regional cooperation in all activities to combat IUU fishing, it was possible to address some of them at the national level.

98. In his commentary, Mr Lobach suggested that, in order to have a coordinated approach, various categories of IUU fishing activities in the subregion should be identified. He referred to Article 4 of the FAO Model Scheme for such categories. He noted that all Working Groups had identified that the lack of political will was a major constraint. He added that this was surprising given that IUU fishing was high on the political agenda in other parts of the world. Mr Lobach stressed that the only way to combat IUU fishing was to establish means of cooperation, including the harmonization and standardization of port State measures, as well as key linkages such as VMS and catch documentation schemes.

Case study: the Bold Beauty

99. The objective of the second Working Group exercise was to consider a fictitious scenario based on IUU fishing by the vessel Bold Beauty and the need for port State measures to be taken. The case study is attached as Appendix Q and the conclusions of the Working Groups are in Appendix R.

100. Three commentaries were made on the conclusions of the Working Groups. Mr Kevin Painter, FFA, Fisheries Enforcement Officer, Honiara, Solomon Islands, noted that from an operational point of view, the Bold Beauty exercise was legally complex with regard to the actions an authorized officer might be required to take. First, it would be necessary to ensure that the quota had indeed been reached. In the scenario, it read that it was “believed” that the quota had been reached. Assumptions should never be made by authorized officers. It would also be necessary to check with the Oceanic Fisheries Commission (OFC). Realistically, from the viewpoint of a Voluptia authorized officer, it would be advisable to detain the vessel, secure the catch and seize all evidence for investigative purposes. Following these actions, management within the chain of command should be contacted as well as the in-house attorney or the Attorney General’s office. Because the issues were complex, the decision to take enforcement action would almost certainly be made at higher levels in government and the decision would be more than likely reached after discussing the issue with various government departments or agencies. The authorized officers should keep the vessel, its catch, and evidence secured while this process was taking place. From a Paradiso perspective, the situation would be easier because of the clear violation of national law (i.e. illegal fishing in the Paradiso EEZ). The OFC issues could be worked out at higher levels of government in due time.

101. Mr Ortiz commented that in the USA, “failure to comply with treaty measures” could be used in a Lacey Act prosecution. The Bold Beauty could therefore be prosecuted for violating the conservation and management measures of the OFC. He explained that if the two port States in the case example had similar statutes, they might be able to apply sanctions for the illegal fishing that occurred on the high seas. He further commented that OFC member countries might consider a variety of options to move Centralia to fulfill their obligations, including: identifying their concerns with OFC measures and attempting to draft measures that address those concerns while furthering the goal of the RFMO; trade measures; diplomatic demarches; and notifying the fish purchaser that Centralia flagged vessels were engaged in IUU fishing operations and the flag State had made no effort to address the problem, and seeking their assistance in putting pressure on the nation and its vessels to comply.

102. Mr Marx commented that from a practical perspective, the Bold Beauty exercise posed a number of fundamental challenges particularly in relation to the instance where the vessel operated on the high seas in contravention of the Commission’s conservation and management measures. Fisheries inspectors were unlikely to be in a position where they could exercise sole judgement in this matter and this would need direction from management and legal counsel before commencing any enforcement action other than containing and preserving the scene so that evidence was preserved. With respect to the violations that occurred within the coastal State’s jurisdiction, this was less likely to be the case as the complexity of the situation was far less.

103. From a technical perspective, Mr Marx pointed out that the exercise offered some interesting challenges particularly in respect of the nature of Commission's conservation and management measures and whether they were binding on States that had chosen to register their objection to, and abstain from, their implementation. This issue could have been explored further and would have been likely to offer some interesting discussion about decision making processes, and RFMO rules of procedure – both of which may affect the binding nature of the conservation and management measures.

104. In his commentary, Dr Tsamenyi noted that the Working Groups had been comprehensive in addressing the complex legal, operational and diplomatic issues raised by the problem. He drew the attention of participants to the importance of having a clear understanding not only of the relevant provisions of the 1995 UN Fish Stocks Agreement but also other rules of international law. He added that there was also a need to develop harmonized national and regional measures to address the types of IUU fishing issues raised by the problem.

Review of the FAO Model Scheme with a view to developing standards for the Pacific Islands

105. Four Working Groups were formed to review the FAO Model Scheme with a view to developing standards in the Pacific Islands in the following thematic areas:

- Legal;
- Information requirements and systems;
- Inspection procedures and results of port States inspections; and
- Training programmes.

The composition of the Working Groups is attached as Appendix S and their reports are shown in Appendix T.

106. Three commentaries were made on the conclusions of the Working Groups. Mr Lobach congratulated all the Working Groups for their excellent work and presentations. He emphasized that a fundamental role should be to harmonize efforts to combat IUU fishing, including agreeing on joint protocols for the sharing of information. He was encouraged by the suggested adjustments required for implementing the FAO Model Scheme in the Pacific Islands as well as the detailed outline for a training programme.

107. Mr Brown commended the Working Groups on their comprehensive presentations and reiterated the point made earlier that it was critical that there be a harmonized approach to port State enforcement in the Pacific Islands. He noted that one of the aims of the exercise was for participants to consider the FAO Model Scheme in detail and that it was clear from the presentations that this was achieved.

108. Dr Aqorau stressed on the reports of the Working Groups had given serious consideration to the threats posed by IUU fishing and the role that port State measures could play in deterring IUU fishing. He noted the high level of understanding by the participants of the issues, and the comprehensive suggestions made to develop a port State enforcement scheme that would reflect the peculiar problems and circumstances of the Pacific Islands. Dr Aqorau reiterated the importance of the port State scheme as an instrument through which the FFA countries could enhance the enforcement of their conservation and management

measures. He noted that the ongoing FFA training programmes would be tailored to take account of the port State enforcement scheme and that there would be continued collaboration with the FAO to strengthen port State enforcement measures.

109. In discussion, the Facilitator, Mr Teo recalled that the conclusions and outcomes of the Workshop would be fed into the FFC MCS Working Group, a Sub-Committee of the FFA Governing Council (the Forum Fisheries Committee (FFC)), where members would coordinate and harmonize their approach to port State measures prior to the WCFPC Technical and Compliance Committee Meeting to be held in September 2006. Proposals for training would be incorporated into the FFA Work Programme for approval by FFC. The importance of developing harmonized port State measures for foreign vessels was underscored, but their application to national vessels, possibly on a more stringent basis, would be equally important.

110. The value of the FAO Model Scheme has a “toolbox” of minimum standards was reiterated but the need to read it together with the 1995 UN Fish Stocks Agreement was underlined. For example, it included in its list of serious violations “such other violations as may be agreed by an RFMO” (Article 21(11)(i)). In this regard, it was pointed out that some FFA member countries incorporated or referred to the list of serious offences in the 1995 UN Fish Stocks Agreement, but others developed their own lists and this should be noted in developing a regional port State Scheme.

111. A brief account was given of the recent joint surveillance exercise coordinated from Tonga, where vessel monitoring systems were integrated, allowing a focus on other compliance issues such as licensing.

CLOSURE OF THE WORKSHOP

112. The Workshop Representatives, Mr Graham and Mr Pangelinan, made the following observations on, and recommendations about, the Workshop:

- Participants appreciated the in-depth, comprehensive and coherent presentations made by the resource persons.
- Some participants were new to fisheries and although a little unfamiliar with some fisheries issues, they found the workshop to be an “eye opening” experience and rewarding in terms of the knowledge gained and contacts made.
- Resource persons were very forthcoming in providing additional information and follow-up discussions on issues of particular interest to the participants.
- It was noted that papers/presentations should be given to participants in CD ROM format so as to reduce excess baggage when traveling home.
- Networking opportunities during lunch and morning and afternoon teas were well received and they provided substantial opportunities for practitioners and those with similar interests to engage in productive discussions.
- Participants found the case studies to be well organized, very interesting and thought provoking. Case studies were not just theory-based but were also reality-based.

The following recommendations were made by the Workshop:

- Participants felt that it would have been useful if they had had the opportunity to present a summary of port State measures in their countries. These presentations would have been “ice-breakers” and facilitated further discussions.
- Participants felt that Working Groups should have been rotated so that they participated in different groups. This rotation would have enabled participants to engage in lively debate on issues and to bring new ideas to the group.
- Participants felt that while case studies offered opportunities to develop skills in a workshop setting, mindful of the participants’ diverse skills and experiences, it would have been useful for each Working Group to tackle specific or different issue that would allow for more in-depth and worthwhile discussion.
- Participants noted that the Bold Beauty case study was very worthwhile, stimulating discussions in the Working Groups and allowing participants to apply what they had learned over the last three days.
- In the Working Groups, group leaders should be handpicked and resource persons should be identified and coached to stimulate lively debate and direct the work of the groups on key issues. The Working Groups should not deviate from the expected outcomes.
- All in all, the participants appreciated the informal nature of the Workshop and the dedication and hard work of the Workshop organizers and sponsors.

113. The Workshop Facilitator, Mr Teo, thanked FAO for organizing the Workshop and acknowledged FFA’s gratitude to have been asked to partner FAO in the delivery of the Workshop. He noted that the Workshop was very timely and strategic given the decision of the Western and Central Pacific Fisheries Commission for its members to develop a regional scheme on port State measures based on the FAO Model Scheme. He noted that the outcomes of the workshop would lead into other regional processes like the meeting of the FFA MCS Working Group and the WCPFC Technical and Compliance Committee to be held in September 2006 in Brisbane, Australia. Both of these meetings will consider amongst other issues, a regional scheme on port State measures. Mr Teo thanked all participants for their active involvement and contributions during the Workshop and particularly for sharing their experiences and knowledge on the application of port States measures in their respective jurisdictions. He also thanked the resource persons for their comprehensive and highly informative presentations and for sharing their vast experiences on issues pertaining to port State measures generally and the scope and application of the FAO Model Scheme. The Facilitator noted that the presentations and the ensuing discussions helped tremendously the participants’ understanding of the significant role of port State measures as one of the many tools to combat IUU fishing.

114. The Facilitator reiterated the universal concern regarding the adverse effect of IUU fishing on sustainable and responsible fisheries and the urgent need for concerted efforts by the international community to combat IUU fishing. He urged participants to make good use of the information and knowledge they have acquired during the Workshop and to contribute constructively to national and regional discussions designed to develop a regional scheme for port State measures and their application and implementation at national levels.

115. On behalf of the FAO Sub-Regional Representative for the Pacific, Mr Izumi, the Workshop Coordinator, thanked all participants, resource persons and FFA and FAO staff for their cooperation and active participation in the Workshop. He expressed FAO's continued commitment to the effective implementation of the IPOA-IUU in the subregion. He also thanked FAO Headquarters for initiating the Workshop and for securing funding. He further expressed the importance of joint efforts in combating IUU fishing and that this subregional workshop, jointly organized by FAO and FFA, was a good example.

116. The Technical Secretary, Ms. Swan, thanked the participants, resource persons and FFA and FAO colleagues for their dedication and hard work during the Workshop. She expressed her gratitude to the Workshop Facilitator who had guided deliberations in a skilled and exemplary manner. She emphasized the importance of the effective implementation of port State measures, at national and regional levels, in the Pacific region where the fisheries resource was of utmost social and economic importance. Ms Swan noted that the Workshop had proposed a series of healthy conclusions, recommendations and follow-up actions that reflected national and regional concerns, and could be used as a basis for development of a regional scheme on Port State Measures by the West and Central Pacific Fisheries Commission.

117. The Technical Secretary reiterated the high priority given by FAO and the international community to strengthened and coordinated port State measures to combat IUU fishing, and referred to recent developments in the UN System and at Ministerial level that are leading to a process to develop a binding instrument. She added that within its technical and financial capabilities and the constraints that these imposed, FAO would continue to assist Pacific Island countries combat IUU fishing, particularly by assisting with the development of NPOAs-IUU that include measures and activities in relation to port State measures. The Technical Secretary concluded by recognizing the important financial support for the Workshop provided by FAO's FishCode Programme through its TrainFish Component, supported by the Government of Sweden, and the Small Islands Developing States (SIDS) component, supported by the Government of Japan and FAO's Regular Programme. She expressed deep thanks to the FFA for its partnership, and the significant role played by its Director-General and staff members in the organization and delivery of the Workshop. The Technical Secretary extended appreciation and thanks to all others who supported the Workshop, particularly the West and Central Pacific Fisheries Commission, the Western Pacific Regional Fisheries Management Council, the Governments of New Zealand and the United States of America and the FFA member countries that supported the attendance of their participants (Federated States of Micronesia, Tokelau, Tonga and Vanuatu). The efforts of FAO's Sub-Regional Office for the Pacific Islands, and in particular Mr Izumi, and the FishCode Programme in facilitating administrative arrangements for the Workshop were gratefully acknowledged.

118. On behalf of the participants, Ms Soakai Apisake thanked FAO and FFA for organizing the Workshop. She also expressed appreciation to Mr Izumi for the logistical arrangements he had undertaken for the Workshop. In addition, she thanked Ms Swan, FAO and FFA staff, consultants and resource persons for their efforts in bringing the Workshop to fruition. Ms Apisake also thanked the Government of Sweden for its generous funding of the meeting through FAO's FishCode Programme.

119. Ms Apisake added that port State measures in the Pacific Islands assumed a role of considerable importance because of the high dependence of countries on their fisheries resources both for food security and economic development. She noted that the Workshop had been very useful and timely and expressed the view that it would assist Pacific Island countries combat IUU fishing and help ensure that future generations were not deprived of their livelihoods. She wished all colleagues a safe and enjoyable homewards journey.

120. The Workshop closed at 11.30 hours on 1 September 2006.