

**Report of the**

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**FAO/APFIC REGIONAL WORKSHOP ON PORT STATE MEASURES  
TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING  
FOR THE SOUTH ASIAN SUBREGION**

**Bangkok, 10–13 February 2009**



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## PREPARATION OF THIS DOCUMENT

This is the final version of the report of the FAO/APFIC [Food and Agriculture Organization of the United Nations/Asia Pacific Fishery Commission] Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the South Asian Subregion that was held in Bangkok, Thailand, from 10 to 13 February 2009.

FAO.

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### ABSTRACT

This document contains the report of the FAO/APFIC Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the South Asian Subregion, which was held in Bangkok, Thailand, from 10 to 13 February 2009. The objective of the Workshop was to develop national capacity and promote bilateral, subregional and/or regional coordination so that countries would be better placed to strengthen and harmonize port State measures and, as a result, implement further the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing and the Chairperson's Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, if and when it enters into force. The Workshop addressed: the background and framework for port State measures; subregional and regional approaches to illegal, unreported and unregulated fishing and the implementation of port State measures; the Chairperson's Draft Agreement and the role of the Asia Pacific Fishery Commission; national coordination and implementation of port State measures, and perspectives on port State measures, including responses to the FAO questionnaire that was circulated prior to the Workshop to collect information relating to port State measures in the South Asian subregion. Working groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. In the first exercise, participants addressed multidisciplinary aspects of port State measures, and in the second exercise, thematic issues were considered. The final session of the Workshop entitled "Looking ahead: and agenda for the subregion on port State measures" sought to identify key issues to be addressed by countries after the Workshop. Funding and support for the Workshop were provided by the FAO Regular Programme and by the Governments of Norway, Sweden and the United States of America.



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## **OPENING OF THE WORKSHOP**

1. The FAO/APFIC [Food and Agriculture Organization of the United Nations/Asia Pacific Fishery Commission] Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the South Asia Subregion, was held at the Imperial Queen's Park Hotel, Bangkok, Thailand, from 10 to 13 February 2009.
2. The Workshop was attended by 10 participants from five South Asian countries. A list of participants and FAO personnel who attended the Workshop is attached as Appendix B.
3. Ms Judith Swan, FAO Consultant and Technical Secretary of the Workshop, Rome, Italy, called the Workshop to order. She welcomed participants and FAO colleagues. She stressed the importance of port State measures as a cost effective tool to combat illegal, unreported and unregulated (IUU) fishing.
4. Dr Simon Funge-Smith, Senior Fishery Officer, FAO Regional Office for Asia and the Pacific, Bangkok, Thailand, APFIC Secretary and Workshop Coordinator, presented a statement on behalf of Mr He Changchui, Assistant Director-General and FAO Regional Representative for Asia and the Pacific, Bangkok, Thailand. His statement is in Appendix D. Ms Swan invited participants and FAO personnel to introduce themselves to the Workshop.
5. The Agenda for the Workshop is attached as Appendix A and the list of documents is attached as Appendix C.

## **BACKGROUND AND INTERNATIONAL FRAMEWORK FOR PORT STATE MEASURES**

6. The Workshop viewed a multimedia presentation prepared by FAO on port State measures. It highlighted, *inter alia*, the status of world fish stocks, the need for port State measures, aspects of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing (Model Scheme), the development of a binding instrument on port State measures and the need to block IUU-caught fish from entering international fish trade.
7. Dr David J. Douman, Senior Fishery Liaison Officer, FAO, Rome, Italy, made a presentation entitled "International framework for port State measures to combat IUU fishing: towards more stringent and binding measures". Its purpose was to provide an overview of the international framework for port State measures for fishing vessels, showing how these measures had evolved primarily to support improved goals of long-term sustainability and enhanced fisheries governance. The presentation outlined why port State measures had assumed an increasingly important role, concurrent with international concern about IUU fishing, and explained FAO's plans to strengthen port State measures through the development of a legally-binding instrument.
8. In reviewing the evolution of port State measures, Dr Douman reviewed the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, Agenda 21 adopted by the 1992 United Nations Conference on Environment and Development, the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the relevant matters considered by the 2006 Review Conference of the Fish Stocks Agreement, the 1995 FAO Code of Conduct for Responsible Fisheries, the IPOA-IUU, the 2001 World Summit on Sustainable Development (WSSD) outcomes, the Model Scheme, the fisheries resolutions of the United Nations General Assembly (UNGA) and decisions of the FAO Committee on Fisheries (COFI).
9. The presentation also highlighted FAO's role in capacity building to assist developing member countries address IUU fishing. Dr Douman pointed out that WSSD, UNGA and COFI underscored the central role of capacity building to enable countries meet their obligations under

international law. He added that FAO had an ongoing capacity building initiative and that six regional workshops focusing on the implementation of port State measures had been organized.

10. In his conclusion, Dr Doulman noted that IUU fishing remained a serious impediment to sustainability in fisheries and that ongoing and strong political commitment was required to underpin measures that would restrict or prevent financial flows to IUU fishers. Since the main incentive to engage in IUU fishing is profit-driven, the use of market-related and port State measures probably offered the best opportunities to achieve this goal.

11. A second presentation entitled “Port State measures, linkages with other compliance tools and FAO initiatives” was made by Ms Swan. She introduced developments relevant to port State measures, linkages with other compliance tools for monitoring, control and surveillance (MCS) and relevant FAO initiatives. She explained the suite of measures included in the Model Scheme and their outcomes. In particular, they prohibited activities that would result in economic profit for those involved in IUU fishing activities and enabled further actions to deter such activities in the future. They were cost-effective and could be integrated into a coordinated system of port controls together with health, security and safety controls in ports. However, there were many challenges, such as “ports of convenience”, transshipments at sea and weak flag State control.

12. The focal role played by port State measures in relation to other key compliance tools was emphasized. The components and successful results of port controls developed by the International Maritime Organization were described and opportunities for collaboration with controls for fishing vessels noted, mindful that “vessels” subject to port State measures would include support vessels such as container ships.

13. A range of compliance tools had been developed by regional fisheries management organizations or arrangements (RFMO/As), and port State measures played a vital role in enhancing their effectiveness. Vessels on an RFMO/A IUU fishing list could be denied entry to use of ports. This could be supported by dockside checks to verify information provided by vessel monitoring systems (VMS) and catch certification. The governance role of RFMO/As in strengthening and harmonizing port State measures was underlined, noting the increasing number of RFMO/As and the expansion of their initiatives to address IUU fishing through port State measures.

14. The responsibility of flag States to effectively control their fishing vessels had not been successfully discharged by many States, but an important role of flag States was emerging in the context of port State measures, both before use of port and after inspection. For example, flag States should require their vessels to cooperate with port States, and request port States to inspect their vessels where IUU fishing activities were suspected. After inspection, flag States must fully investigate and report on actions it took against such vessels. Recognizing the need for many flag States to fulfil their role under international law, the FAO Committee on Fisheries (COFI) in 2007 called for an Expert Consultation to develop criteria for assessing the performance of flag States, and examine possible actions against vessels flying the flags of States not meeting such criteria. The Expert Consultation will be held in Rome, Italy, from 22 to 26 June 2009, and it is expected that the role of flag States in promoting and ensuring effective port State measures would be examined.

15. Documentation and information collection and exchange that formed part of port State measures had a significant impact; it was sometimes easier to prove false documentation than to prove IUU fishing activities. Ms Swan noted the emerging trend where access to ports in a number of countries would depend on certification by the flag State that the fish to be offloaded was caught legally. Another potential documentation requirement under review at FAO included the development of a Global Record of Fishing Vessels, which could improve traceability and transparency. FAO was also undertaking a global analysis of vessel monitoring systems.

16. Finally, Ms Swan described the FAO initiative for human capacity development and institutional strengthening, through coordination of regional workshops on port State measures so that

countries would be better placed to strengthen and harmonize port State measures. It would ultimately contribute to the development of relevant RFMO/As requirements and a binding international instrument.

17. Following the presentations the Workshop discussed traceability. It was recalled that the European Community (EC) Regulation relating to the flag State certification of catches imported into the Community would take effect from 1 January 2010.<sup>1</sup> It was noted that many developing countries were likely to encounter problems complying with the certification requirements. It was observed that other countries were increasingly requiring flag States to certify catches as part of an emerging international trend. The Workshop observed that these requirements were likely to be very beneficial in stemming the flow of IUU-caught fish into national markets but that additional burdens would be placed on exporting countries.

18. The Workshop noted that the Chairperson's draft Agreement contained an important Article relating to capacity building. It recognized the importance of human resource development if the Agreement was to be widely embraced and implemented fully and effectively.

19. The Workshop agreed that the assignment of a permanent and unique fishing vessel identifier, as envisaged by the Global Register, would assist greatly in tracking and monitoring vessels, particularly when they were sold or transferred flag. The Workshop noted that work towards the establishment of the Global Register for Fishing Vessels should be expedited.

20. The implementation of measures to combat IUU fishing and in particular, port State measures, required effective coordination at the national level across several agencies. The Workshop agreed that countries should ensure that there was a relevant mechanism to promote coordination. It was also recognized that such cooperation and coordination should be pursued at the subregional and regional levels either through RFMO/A or another ad hoc mechanism.

## **SUBREGIONAL AND REGIONAL APPROACHES TO IUU FISHING AND PORT STATE MEASURES**

21. Dr Doulman made a presentation entitled "Scope and solutions: IUU fishing in the South Asian subregion". He commenced by providing background information on IUU fishing noting that it was a global problem found in all capture fisheries irrespective of their location. It impacted adversely efforts to sustainably manage fisheries targeting species that were high valued with a high market demand. The exclusive economic zones (EEZs) of developing countries were particularly susceptible to IUU fishing as were more isolated high seas areas.

22. With respect to the main IUU fishing problems and their solutions in the South Asian subregion, Dr Doulman pointed out that he had drawn on the work of the 2006 FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – South Asian Subregion to compile the list of problems and solutions. The Workshop had ranked IUU fishing problems by country in order to develop a regional ranking. He stressed that rankings were not official but that they provided a good perspective on IUU fishing problems and solutions for the subregion. The problems and solutions discussed included unreported and misreported catches, encroachment by foreign fishing vessels into EEZs, inadequate MCS resources, a lack of coordination and communication between agencies in national administration, a lack of subregional cooperation on IUU fishing issues, use of prohibited gears and fishing methods, unauthorized fishing of prohibited and undersized species, unauthorized fishing in closed areas and seasons, a lack of catch documentation and certification schemes and fleet and fishing overcapacity.

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<sup>1</sup> Council Regulation No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate IUU fishing.

23. In conclusion, Dr Doulman noted that IUU fishing was not diminishing and that IUU fishers were going to greater lengths to hide their operations as it became more difficult to operate. He stressed that IUU fishers had good operational intelligence, were highly motivated, innovative, dynamic and mobile. They relied heavily for their operations on support from States issuing “flags of convenience” and States operating “ports of convenience”. Because IUU fishing was financially motivated, Dr Doulman stated that port State measures could be an effective tool in blocking the entry of IUU-caught fish into national and international markets, thereby removing the financial incentive for fishers to engage in IUU fishing.

24. Dr Funge-Smith then made a presentation entitled “The current profile of IUU fishing activities and issues relating to port State control in the subregion”. The presentation commenced with a brief description of South Asian fisheries noting that they were tropical multispecies fisheries. There was a high level of fishing within EEZs and distant water fishing operations by countries in the South Asian subregion were rare. Transborder fishing was common between adjacent countries and was largely IUU fishing in character, although it was often tolerated for historical reasons. In some high seas areas there was fishing by foreign vessels from countries from outside the subregion as well as fishing by these vessels within EEZs under access arrangements.

25. Dr Funge-Smith noted that there was a general lack of entry barriers or capacity controls in domestic fisheries in the subregion, which had led to increasing fishing pressure and stress on fisheries resources. All of the countries in the region had a sizeable small-scale/artisanal sector providing employment in harvest and post harvest activities. These fisheries characteristically experienced multiple conflicts (e.g. small/artisanal versus big; trawl versus non-trawl; traditional versus new entrance; small versus small; transboundary).

26. It was pointed out that there were various types of IUU fishing in the subregion including IUU fishing by small-scale artisanal vessels. This fishing was conducted in national waters and in some circumstances in the EEZs of other States. These fishers were driven by the need to meet basic food needs and not as part of organized IUU fishing activity. Incidental IUU fishing activities were occasional or opportunistic by otherwise legitimate commercial fishers seeking to increase their profits. Directed IUU fishing activity, under the cover of legal industrial fishing operations, occurred where parts of an operation were legitimate but IUU fishing was regularly conducted as means of minimizing access fees and maximizing profits. Finally, there were also industrial fishing operators that made little attempt to legitimize their enterprise and deliberately set out to conduct IUU fishing so as to maximize returns and minimize costs.

27. Dr Funge-Smith stated that the historical origin of IUU fishing in the subregion stemmed from the longstanding lack of domestic fisheries management, including the management fishing capacity. One of its effects had been the movement of vessels outside EEZs in search of fishing opportunities. Government policies and subsidies for building “offshore” fleets and support to inshore fisheries had contributed also to the excess capacity problem. This was largely because economic forces did not take hold under subsidized regimes. Furthermore, there were few alternative employment opportunities for displaced fishers, leaving no alternative other than to try and hold on in the fisheries sector as long as possible at marginal profitability. Where national vessels were operating outside EEZs there was often a general failure to control the operations of these fishing vessels by the flag State.

28. The Workshop was informed that other conditions in South Asian fisheries encouraged IUU fishing. There were weak national governance structures and limited MCS capacity to control IUU fishing by nationals and “foreign fishers”. Foreign fishing access arrangements differed widely among countries. Some countries were more susceptible to IUU fishing by “foreign fishers” than other countries. In some cases, undelimited or disputed boundaries created uncertainties for fishing. The lack of a regional structure to coordinate data and assessment as a basis for regional management was a persistent constraint although this matter had been resolved in areas under the competence of the Indian Ocean Tuna Commission (IOTC). The buoyant market conditions for seafood products also

presented an ongoing opportunity to avoid compliance with management measures since profits could be high.

29. The most common forms of IUU fishing reported in the South Asia subregion related to the cross-border activities between neighboring countries. Illegal gear use and fishing in non-authorized areas were common domestic issues. All countries reported the problem of foreign fishing vessels operating within their EEZ waters. Transshipment of fish was also noted as a problem by at least one country. The extent to which this was IUU fishing by distant water fishing nations (DWFNs) was not well recorded, although vessels detention reports indicated that vessels from many non-South Asian countries were involved.

30. Dr Funge-Smith reminded the Workshop that port State measures aimed to deny opportunities to profit from IUU fishing and could assist in deterring poaching activities by DWFNs. South Asian countries had all declared future aspiration to engage more intensively in offshore/high seas fishing, largely targeting tuna resources within their EEZs and on the high seas. Alongside this aspiration was presumably an interest to join IOTC. Countries in the subregion had also noted intentions to upgrade port facilities to handle higher valued fish, particularly with the desire to open opportunities to export fisheries products.

31. Since most IUU fishing in the South Asian subregion was domestic or between neighbouring countries, the use of port State measures might not be particularly effective in combating these types of IUU fishing. However, all countries in the subregion reported poaching by foreign vessels within their EEZs. This fishing was partly from non-neighbouring countries with tuna being a significant target of this fishing, even though other resources were also targeted. Perhaps the most important feature was that as port States commenced to control more effectively IUU fishing, vessels would increasingly seek out those countries that had not implemented port controls. It was important that countries in the subregion did not permit themselves to fall into this category as it could have knock-on effects for the development of national offshore fishery enterprises.

32. A third presentation was made by Mr Blaise Kuemlangan, Legal Officer, Legal Department, FAO, Rome, Italy. It focused on the implementation of port States measures by RFMO/As to combat IUU fishing. He stated that the potency of port States measures existed because general international law recognized that port States had wide discretion over what happened in their ports. States were implementing port State measures largely as members of RFMO/As but some jurisdictions (e.g. the EC) had introduced and elaborated port State measures. The most effective port State measures or schemes were being implemented by RFMO/As.

33. The port State measures currently recommended and in use by members of RFMO/As included the denial of access to ports or use of port facilities, refusal of permission to land or transship catch and the conduct of inspections to ensure that catches had been taken in accordance with applicable conservation and management measures. For improved results members of RFMO/As used port State measures together with other specific requirements and tools. They included specific transshipment regulations, catch documentation schemes, vessel lists and trade and market related measures.

34. Mr Kuemlangan then gave an overview of actions taken by various RFMO/As relevant to countries in the South Asian subregion, particularly with respect to IOTC. The Commission had introduced a system of negative listing of IUU fishing vessels, requiring, among other things, that members take specific actions against such vessels. IOTC had also established a "positive list", which implied that port State action should not be taken against vessels included on that list. IOTC had introduced a specific scheme concerning transshipment, including special requirements applicable in ports. He also stated that RFMO/As had agreed to implement trade- and market-related measures, containing special obligations for port States. The Commission for the Conservation of Antarctic Marine Living Resources was referred to in the presentation to highlight its well-known catch documentation scheme, which required actions by port States.

35. Mr Kuemlangan noted that the application of enhanced RFMO/A port State measures was achieving practical results. He referred, in this regard, to the case of the fish carrier, the “Polestar” that was not permitted to enter port or land its catch due to the effective application of the North East Atlantic Fisheries Commission port States measures system and cooperation from other port States.

36. Mr Kuemlangan concluded his presentation pointing out that the universal application of enhanced port State measures through RFMO/As would help to stem “port shopping” and the potential problem of “ports of convenience” where vessels sought to use ports in countries that were unable or unwilling to take adequate enforcement action within their own ports to support conservation and management measures. To this end, cooperation among countries was required to implement the Model Scheme and the legally-binding international instrument currently under negotiation.

37. In discussion following the presentations, the incidence of transboundary “poaching” by small-scale fishers was considered. In most instances, countries saw this as part of traditional migrations, poorly delineated boundaries and the tendency to “share” resources in some areas. It was noted that such fishing would not be considered a high priority form of IUU fishing. Nonetheless, it was pointed out that when such activities occurred on a regular basis by a large number of vessels, the cumulative effect was similar as directed IUU fishing activity by a limited number of larger vessels.

38. A concern was raised in relation to the definition of IUU fishing when registered vessels that were otherwise recognized as legal vessels crossed into another State’s waters. It was noted that fishers might not be aware of national boundaries or vessels might be out at sea for religious purposes. It was agreed that these vessels should not be considered IUU fishing vessels. It was important that national and cultural considerations be taken into account when determining whether a vessel was an IUU fishing vessel. In this regard, it was pointed out that there was a need for bilateral dialogue and solutions when problems of this nature arose.

39. The Workshop was informed that some South Asian countries already had regulations in force to address certain aspects of IUU fishing, even though these regulations did not always cover fishing beyond EEZs. It was pointed out that countries should seek to redress such shortcomings, particularly given the emerging focus on the development of industrial fleets in the subregion.

#### **CHAIRPERSON’S DRAFT AGREEMENT ON PORT STATE MEASURES AND ROLE OF APFIC**

40. Ms Swan made a presentation on the Chairperson’s draft Agreement.<sup>2</sup> She introduced the process and approach in the development of the instrument, and explained that although great strides had been made to reach agreement on many provisions at the FAO Technical Consultation to draft an Agreement on Port State Measures to Combat IUU Fishing, there were still some key issues that were not yet resolved. However, many countries appeared to be willing to work intersessionally to move forward towards agreement.

41. Ms Swan explained the framework of the Chairperson’s draft text, and addressed each provision in detail. Issues under General Provisions were highlighted, noting the importance of defining the terms and those where agreement had not been finalized, particularly “illegal, unreported and unregulated fishing”. Other provisions highlighted were the application of the Agreement and the encouragement to integrate port State measures at the national level, both of which remain to be agreed.

42. The step-by-step process established in the Chairperson’s draft text for the port State to allow or deny the use of its ports was explained. Requirements included the designation of a port, advance

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<sup>2</sup> Chairperson’s Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of 5 February 2009.

requests and information to be supplied by a vessel, authorization by a port State and situations where entry must be prohibited.

43. Ms Swan reviewed provisions in the text relating to the use of ports that were still to be finalized by the Technical Consultation. She explained the wide range of purposes for which use could be denied.

44. Ms Swan described the comprehensive process for inspections and follow-up actions. It included setting levels and priorities for inspection, conducting inspections, inspection reports, transmittal of the inspection results, electronic exchange of information, training for inspectors and port State actions following inspection. The wide array of duties and standards for conducting inspections and reporting was emphasized.

45. It was pointed out that the increased emphasis on the role of the flag State, both before port entry and after inspection, reflected the will of the international community to enhance the duty of flag State responsibility.

46. The Article relating to the requirements of developing States was elaborated, noting its breadth and supportive approach. The different views of delegations at the Technical Consultation in relation to dispute settlement were described, as reflected in the Chairperson's draft text.

47. The final provisions of the Chairperson's draft text were reviewed and the considerations surrounding the unresolved issue of whether the Agreement should be concluded within or outside the FAO Constitution were explained. It was noted that FAO required a long process for any proposed amendments and that the FAO governing bodies would need to have input to any amendment process. It was acknowledged, in this context, that FAO Members not party to the Agreement could vote on amendments to the Agreement. An important matter was a provision requiring the convening of a Conference of the Parties to the Agreement on a regular basis would need to be included in the draft text. In this respect, FAO was unlikely to have funds to support this, or any other activity under the Agreement, a situation not anticipated to change in the future. Finally, an Agreement concluded outside of FAO would not be limited to FAO Members.

48. In conclusion Ms Swan reviewed some of the key outstanding issues to be considered at the next resumed session of the Technical Consultation.

49. Dr Funge-Smith made a second presentation that described briefly the role and functions of APFIC. The Commission was an "Article XIV Body" convened under the FAO Constitution and was therefore "owned" by its 20 Members.<sup>3</sup> APFIC was established in 1949 with the intention of creating regional fisheries agreements and arrangements. This was intended originally to give APFIC management powers. To date, Members have not assigned any management function to the Commission. APFIC must also avoid overlap with the areas and stocks under management by other RFMO/As. The APFIC area ("the Asia-Pacific") was rather general and included parts of the areas of competence of IOTC and the Western Central Pacific Fisheries Commission and the North Pacific Anadromous Fish Commission.

50. APFIC may not be mandated currently with management functions but the opportunity exists if a "management function" can be identified that Members agree on. The presentation stressed that RFMO/As did not actually manage resources, but rather they acted as the forum for developing binding norms for Members that were responsible for their implementation. One of APFIC's key roles in the region was promoting subregional arrangements, in particular the promotion of subregional initiatives such as the Bay of Bengal Large Marine Ecosystem project. Focusing on a subregional geographical basis provided a more manageable area, which was not necessarily stock-focused (e.g.

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<sup>3</sup> Australia, Bangladesh, Cambodia, China, France, India, Indonesia, Japan, Malaysia, Myanmar, Nepal, New Zealand, Pakistan, Philippines, Republic of Korea, Viet Nam, Sri Lanka, Thailand, United Kingdom, United States of America

Large Marine Ecosystem, Marine eco-region). One of the important outcomes of this project was the development of a regional arrangement that might include measures relating to fisheries, the marine environment or other measures affecting these matters, such as combating IUU fishing and harmonization of port State measures.

51. At the international level, measures under the Model Scheme generally applied to foreign fishing vessels, and carriers and supply vessels. However, a challenge for many countries in South Asia was to control IUU fishing vessels that might be flying their own flags under a joint venture or other arrangement, but which were fishing outside their EEZs and returned to their national ports for landing or transshipment. The Workshop was informed that these subregional initiatives could assist in the implementation of port State measures such as the facilitation of capacity building and even direct management functions. Training and capacity building functions could include:

- interdepartmental coordination (ports and harbours, maritime/transport departments, fisheries administrations and customs);
- development of national plans of action to combat IUU fishing (NPOA–IUU); and
- development of consensus among Members on the implementation arrangements for port State measures (e.g. harmonizing inspection standards and procedures), conservation and management measures (particularly for highly migratory species and straddling fish stocks) and the need for stronger flag State control of fishing vessels.

52. More direct management activities or functions relating to combating IUU fishing would be to:

- assist countries develop a regional agreement on reporting (e.g. where fishing had contravened a bilateral agreement);
- facilitate harmonization of actions to be taken by port States;
- promote subregional monitoring functions;
- develop MCS measures (e.g. promote a subregional MCS network);
- exchange information on IUU fishing activities;
- coordinate with other RFMO/As; and
- share negative and positive vessel lists.

53. In discussion it was noted that one country, Pakistan, did not have a boundary in the Bay of Bengal subregion but with its common border with India and linkages to the Indian Ocean, there were common interests. In this respect, the participants from Pakistan encouraged FAO to engage Pakistan in network activities that might be initiated. The Workshop agreed that this would be an important aspect of ensuring wider regional cooperation, particularly on issues relating to IUU fishing and the management of migratory or straddling stocks.

54. A question was raised on how to verify vessel information where there were no registration documents. It was pointed out that there were procedures for verifying vessel information in the Chairperson's draft Agreement. Verification of such information could be carried out with reference to other documents such as logbooks or by the flag State in accordance with Annex C of the Chairperson's draft text. The major problem in undertaking inspections was determining vessel owners, particularly the beneficial owners.

55. The issue of multiagency involvement in the management of ports and inspections was raised. A related issue was the need to ensure interagency cooperation in implementing port State measures which could be difficult for countries in South Asia. The Workshop was informed that the multiagency competence in relation to port States measures and the need for interagency cooperation was addressed at the resumed session of the Technical Consultation in January 2009. There was also text reflecting this concern in the Chairperson's draft Agreement.



## NATIONAL COORDINATION AND IMPLEMENTATION OF PORT STATE MEASURES

56. Participants made presentations concerning national coordination and the implementation of port State measures. The presentations were based on the questionnaire that had been distributed in advance of the Workshop and that focused on issues including IUU fishing, port use, legal authority and institutional arrangements and coordination for port State measures. The presentations were summarized as follows.

### **Bangladesh**

57. Bangladesh is endowed with vast marine resources. The EEZ covers an area of 166 000 km<sup>2</sup>. Fish and fisheries are an indispensable part of life and livelihood of the people of the country. They are an important part of Bangladeshi cultural heritage. In the Bay of Bengal there are two types of fisheries: artisanal and industrial fisheries. The fisheries sector plays an important role for economic development and contributes 4.2 percent of the gross domestic product and about 7.6 percent to total foreign exchange earnings. About 1.2 million fishers are engaged fully in fishing and fishing related activities while about 11.0 million people are partly engaged in fishing and fishing related activities.

58. Industrial fisheries contribute about 10 percent of total marine catches while 90 percent of catches come from artisanal fisheries. The Marine Fisheries Ordinance 1983 was promulgated for the management, development and conservation of marine resources.

59. Under the regulation of this Ordinance no foreign fishing vessel is permitted to fish within Bangladesh's EEZ. According to the Ordinance 1983 every fishing vessel should have a registration and fishing licence from the Marine Mercantile Department and the Marine Fisheries Department. Fishing vessels maintain catch data that are inspected by marine fisheries inspectors. The country's territorial waters are safeguarded by the Bangladesh Navy and Coast Guard. The Government is trying to bring all vessels engaged in fishing within national waters under a registration and licensing system.

### **India**

60. India had several acts and guidelines to manage marine fisheries sector, including the Maritime Zone of India Act 1991, the Marine Fisheries Regulation Act, the Merchant Shipping Act 1958 and the Territorial Waters, Continental Shelf, Maritime Zone of India Act 1976. The guidelines included the Comprehensive Marine Fisheries Policy, the Code of Conduct for Responsible Fisheries and guidelines for resource-specific deep-sea fishing vessels. To bring a uniform set of regulations for fishing in the country's EEZ beyond the 12 nautical miles of the territorial sea into effect, a new piece of legislation was being drafted. It would provide a set of rules to be followed by Indian-owned and Indian-built fishing vessels as well as Indian-owned imported deep-sea vessels. Foreign fishing vessels were at present banned from fishing in the country's EEZ. The proposed legislation would provide for port State measures to address IUU fishing.

61. India recognized the need to improve and strengthen port State measures to combat IUU fishing. The regulation and management of ports and fishing harbours involved many national agencies including the Department of Shipping (under the Ministry of Shipping, Road Transport and Highways), Port Trust Authorities, Department of Animal Husbandry, Dairy and Fisheries (under the Ministry of Agriculture) and relevant State Government Authorities. Effective coordination among these agencies was required for the effective implementation of port State measures. It was recognized that it would be necessary to frame clear mandates and responsibilities for the different agencies involved in the implementation of port State measures. Since these measures were essentially a new tool to combat IUU fishing, appropriate strategies should be developed. They should be supported by awareness creation and training to ensure that there was sufficient and well-trained personnel in the various agencies and departments involved with the implementation of port State measures to combat IUU fishing.

## Maldives

62. The Maldives' atolls cover an area of 160 000 km<sup>2</sup> and has a vast EEZ. Fishing is the main economic activity in the country which can be categorized into reef fishing and offshore tuna fishing. Due to the nature of the atoll type formations with little land and the vastness of the EEZ, IUU fishing is thought to be widespread in the EEZ.

63. There are eight harbours/ports where fish may be either landed or exported. The Malé Commercial Port is the most widely used. It is also the port of call where most of the port controls and regulations are exercised. Maldives has developed exclusive skipjack fishery agreements with five local companies to purchase and export frozen and processed skipjack under long-term agreements. Under these agreements these companies have developed land-based storage and processing facilities for tuna. The companies have their own harbours where most of the tuna caught in Maldivian waters are landed. Therefore these harbours represent important components for the establishment of port State measures in the Maldives.

64. There are many government agencies involved in port controls and regulations. The primary implementing organization is the Maldives Ports Limited (MPL), a recently formed company owned 100 percent by the Government. Malé commercial port is managed by MPL. The Maldives ports, MPL and the Maldives customs services together play a key role in port controls. The regulatory authority for ports in the Maldives is the Ministry of Housing Transport and Environment. Other organizations involved in the control and regulation of IUU fishing are the Ministry of Fisheries and Agriculture, the Ministry of Economic Development and the Maldives Coast Guard.

65. Laws and regulations that govern fishing and fishing operations in the Maldives are mainly covered under the fisheries law and regulations, maritime zones law, trade law and customs laws and regulations. The transport regulations, EEZ regulations and fishing licence agreements are relevant for port State measures.

66. Maldives provides fishing licences to foreign vessels to fish in its EEZ under stringent regulations. The fishing agreements allow only certain methods of fishing and only specified species are allowed to be caught. The fishing zones are clearly defined and monitored and tracked via satellite tracking systems. All foreign vessels must report to the Malé commercial port and they are inspected before the catch can be exported. Vessels must always obtain permission prior to entering and leaving port.

67. The local fishing fleet in the Maldives is about 1 500 strong and mainly fishes for tunas. Vessels are permitted to call into any of the main fishery harbours operated by private companies or land-based fish processing facilities to sell their catch. All fishing vessels are registered at the Ministry of Transport and most fishing vessels are again re-registered as "fishing vessels" with the Ministry of Fisheries and Agriculture, although this is very loosely managed.

68. Fish catch has to be reported from all vessels to the Ministry of Fisheries and Agriculture. A pilot project is underway to install a low-cost VMS for national fishing vessels. This will be critical to combat IUU fishing. There is a need to develop capacity and seek human and financial capital to combat IUU fishing and develop port State measures. Fishery inspectors and observers require training. Fishing communities, fish processors and fishing operators must be made aware of IUU fishing. The existing fisheries law should be comprehensively revised to include provisions to combat IUU fishing and the development of port State measures. The Maldives is considering actively joining IOTC in order to contribute fully to the management of tunas in the Indian Ocean. For enhanced regional cooperation, it may be necessary to review the IOTC mandate or seek alternative regional mechanisms to address IUU fishing more representatively in the South Asian subregion.

## **Pakistan**

69. The fisheries in Pakistan fall under the Ministry of Livestock and Dairy Development (LandDD). Marine Fisheries Department (MFD), which is an attached department of the Ministry, has been entrusted with the responsibility of implementing relevant national acts/laws governing deep-sea fishing. Licensed vessels under joint venture arrangements carried out fishing in the EEZ of Pakistan. Strict control and monitoring strategy is in place with obligatory VMS on board of the vessels with based station in the headquarters of the Maritime Security Agency (MSA). Careful scrutiny was undertaken in issuance of licences involving the MSA, Mercantile Marine Department, Port and Custom Authorities, so as to avoid any type of IUU fishing. There was zero tolerance as these vessels are monitored through VMS around the clock.

70. Stringent national acts and laws such as the Exclusive Fishery Zone (Regulation of Fishing) Act, 1975/rules of 1990, Deep Sea Fishing Policy of 1995 as amended in 2001, and Maritime Security Act 1994 were in place to implement port State measures. Besides, Pakistan was signatory to all those international laws governing fisheries.

71. Pakistan supported the implementation of broad-based port State measures, under an Article XIV-type FAO Agreement, to prevent IUU fishing. However to realize their full effectiveness, there is a need for assistance in: capacity building, awareness raising and training in regional and global conservation and management measures; harmonization of national legislation with international requirements; establishment of effective and timely sharing of data and enhancement of cooperation between flag and port States.

## **Sri Lanka**

72. Sri Lanka's legal framework consisted of the Fisheries and Aquatic Resources Act (No. 2 of 1996), the Foreign Fishing Vessels Regulation Act (No. 59 of 1979) and regulations framed under these acts. Their country had sufficient rules and regulations for the protection, conservation and management of fisheries resources in national waters. However, there was not the same level of power with respect to international waters. Under the Fisheries Act, the Minister had the power to make regulations under Section 61 of the Act, concerning the landing of fish.

73. Sri Lanka had framed fish landing regulations for controlling the operation of foreign fishing vessel that had been registered as foreign fishing companies in the country. A permit for the landing of fish was issued to foreign vessels associated with registered foreign fishing companies. Conditions were imposed on licences for the landing of fish to ensure that IUU-caught product was not landed. Only one port was permitted to receive landings that had been caught outside the EEZ. Port and vessel inspections were undertaken by the harbour manager and fisheries inspectors. There was a lack of infrastructure for inspections and the harbour manager and fisheries inspectors needed training to meet current requirements.

74. Following the presentations, Dr David Lymer, Associate Professional Officer (Statistics), FAO Regional Office for Asia and the Pacific, Bangkok, Thailand, made a presentation that provided a consolidated summary and analysis of the questionnaire responses from Bangladesh, India, Maldives, Pakistan and Sri Lanka. A tabular summary of responses is in Appendix E.

75. Dr Lymer pointed out that on average the countries in the subregion had one or two ports used for foreign or joint venture vessels. These ports on average had 150 calls by foreign fishing vessels each year. However, the number of calls varied and for some ports, in some years, there were even no port calls by foreign fishing vessels at all. All countries had several agencies and departments that were involved in, and had responsibilities for, port control and inspection of fishing vessels, covering the areas of fisheries, security, immigration and emigration, mercantile, economic development, transport and animal health.

76. National legislation relating to port State measures could be divided into two areas:
- fisheries management (fisheries law, Marine Fisheries Ordinance, Fisheries and Aquatic Resources Act); and
  - port and marine management (Harbour Corporation Act, Maritime Security Act, Mercantile Marine Ordinance, EEZ regulations).

These laws were reinforced through national policies and strategies for fisheries development. The laws and regulations were considered, by the countries, to be of medium adequacy (on average) for implementing port State measures.

77. Dr Lymer stated that all countries required foreign or joint venture fishing vessels to provide information prior to entering into port. Usually this was required between 24 and 72 hours prior to entering the port or even into the EEZ. Sixty percent of countries in the subregion always denied the use of its port to non-national fishing vessels that were believed to have engaged in IUU fishing. Most countries always carried out port inspections of non-national fishing vessels in port. However, for some countries only joint venture fishing vessels were allowed into port while non-national fishing vessels were refused use of ports. In addition, some countries always took measures against vessels found to have IUU-caught fish on board whereas other countries only took such action on an infrequent basis. Most countries described their human capacity resources to carry out port inspections as being inadequate. However, when human capacity was adequate, there was a need for training and awareness building.

78. The major constraints or problems to implement effectively port State measures in the subregion were related to unclear authority and limited capacity for registration and licensing of fishing vessels; lack of human and financial capital and resources; lack of subregional cooperation and harmonization; lack of understanding of sustainable fisheries management; lack of political will; lack of awareness; inaccurate data; inadequate infrastructure facilities; lack of communication system and networks, and VMS. The possible solutions identified to deal with these problems were: introducing relevant international legislation on IUU fishing into national legislation; making regional cooperation more effective; seeking development support and technical cooperation; obtaining information about IUU fishing and the importance of sustainable management; training of staff; establishing satellite data communication system networks and VMS; developing infrastructure facilities, and increasing registration and licence office capacity.

79. Dr Lymer noted that the key areas for regional cooperation were: delimitation of maritime boundaries; identification of fishing areas in the subregion and joint arrangements for combating IUU fishing; development of fishing agreements for highly migratory fish stocks and development of mutual understanding and cooperation among countries of the subregion; harmonization of national legislation with international requirements and the introduction of compatible legislation in countries; information sharing (common regional forms and web-portals on information relating to IUU fishing). The mechanisms that could improve future cooperation were: development of appropriate and effective programmes for awareness building, training and capacity building of responsible agencies for port State control, inspections and monitoring; initiation and consultation by countries to enhance cooperation among flag States, port States and RFMO/As; establishment, at national and regional levels, of a common data recording and reporting programme; consideration of a specific intergovernmental agreement and initiation of reviews and development of national legislation to conform with international requirements.

80. In discussion, appreciation was expressed for Dr Lymer's efforts in presenting such a thorough summary analysis of the responses by the participants to the FAO questionnaire on port States measures. Clarification was sought on some elements of the strengths and constraints in the implementation of port State measures, expressed in the responses. It was noted that although some participants stated that human resources were strengths this was qualified by the need expressed by several participants for additional training and human capacity development.

81. Although the sharing of knowledge was described by some responses as a strength, a related problem not addressed was the concealment of knowledge in some instances. A further issue to be addressed by countries with decentralized government would be coordination on port State measures between State and central governments.

82. Human resource constraints in implementing port State measures were identified by the Workshop. It was stated that in some instances sufficient resources existed, but there was still a strong need for capacity building.

### **NATIONAL LAWS FOR THE IMPLEMENTATION OF PORT STATE MEASURES**

83. Mr Kuemlangan gave a presentation entitled “Key elements of national laws for the implementation of port State measures”. It provided an overview of the required elements for national legislation on port State measures to prevent deter and eliminate IUU fishing. He stated that national implementing legislation was vital for implementing port State measures as they translated international obligations and commitments into enforceable requirements nationally. In particular, national legislation would give practical application to the general international law principle which recognized port State sovereignty over its territory including its ports. He underscored the point that universal application of port State measures, including through national legislation, would ensure that no “port of convenience” would exist thus denying IUU fishing vessels the opportunity of exploiting such ports.

84. Mr Kuemlangan highlighted the essential requirements in legislation which should establish a strong MCS and enforcement framework through which port State interventions against IUU fishing could be undertaken. The legislative framework should contain provisions which empowered competent authorities to fulfil their functions and to implement the kind of measures that were described in the Model Scheme as restated and elaborated in the Chairperson’s draft Agreement. These requirements included the designation of ports, requirements for notification and the time limits for such notification, inspections in ports and the range of powers and responsibilities of the inspector and enforcement action in case there was evidence of IUU fishing.

85. In particular, the national legislation on port State measures should define powers, duties and obligations of the management and enforcement authority; provide the basis for implementing MCS tools; protect the interests of fishers (e.g. confidentiality of information); grant enforcement powers (e.g. arrest, detention, seizures); safeguard basic civil rights in enforcement action, and establish judicial or alternative enforcement systems for penalizing violators.

86. Mr Kuemlangan also gave a brief overview of an interesting piece of port State legislation: the Lacey Act of the United States of America. He described the Lacey Act as legislation that created an offence involving the import of fish illegally taken in contravention of another State’s laws (i.e. the underlying violation). Considering the use of a Lacey Act -type clause may require regional discussion but the enactment of legislation was done unilaterally by port States. In drafting legislation, issues such as giving a broad meaning to the word “import” and “persons” were important. He gave examples of how the Lacey Act clause had been incorporated into domestic legislation of certain developing countries.

87. Following the presentation, it was pointed out that India was formulating an act for Indian fishing vessels operating inside the Indian EEZ. More than 50 000 vessels were fishing inside the Indian territorial waters but only about 100 vessels were fishing in the EEZ. All of these vessels were registered. It was noted that it was illegal for a vessel to operate in the EEZ without registration. The development of the new act was intended to harmonize the regulation and control of foreign fishing vessels that entered Indian waters to fish illegally.

88. The Workshop recognized that national and international legislation had important differences. There were also differences among the legislation of countries in the subregion. The

Workshop agreed that it was important to harmonize legislation subregionally (e.g. Bay of Bengal) to ensure that there was a standard application of measures. In this regard, it was pointed out that harmonization did not require identical legislation. Rather harmonization should promote similar application and coverage so that the effect of the legislation was essentially the same.

89. Appendix F contains a list of useful databases and Web sites relating to port State measures.

## **FORMATION OF THE WORKING GROUPS AND THEIR REPORTS AND CONCLUSIONS**

### **Multidisciplinary working groups: implementation of port State measures**

90. Two multidisciplinary working groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. The composition of the working groups for the two exercises is in Appendix G. Each working group was invited to consider a number of key issues as follows:

- main IUU fishing problems in the subregion that could be addressed by port State measures, distinguishing between the issues on foreign and national vessels and current and potential problems;
- strengths and constraints in implementing the measures in the Chairperson's draft Agreement;
- solutions for overcoming the constraints in implementing the measures in the Chairperson's draft Agreement;
- clear steps that national fisheries administrations might take to develop port State measures that implemented the relevant measures of the IPOA-IUU and the measures in the Chairperson's draft Agreement;
- recommended steps for strengthening linkages between port State measures and key compliance tools (e.g. trade, traceability, VMS and information networks); and
- cooperative mechanisms to promote harmonized port State measures at bilateral, subregional or regional levels in South Asia.

91. The reports of the multidisciplinary working groups are in Appendix H.

92. Following the presentations by the working groups, two commentaries were made. Dr Doulman commended both groups for their excellent presentations noting that they had demonstrated a good understanding of the issues involved with the implementation of port State measures to combat IUU fishing. He underscored the importance for all fishing vessels above a minimum size to be authorized to fish and encouraged countries to pay particular attention to fisheries legislation including ensuring that there were adequate penalties and sanctions. In seeking solutions to IUU fishing problems, he proposed that industry be consulted, stressing the need for industry to be part of the solution to IUU fishing. He stressed also the importance of political will. In implementing port State measures Dr Doulman suggested that progress might be best achieved using a stepwise approach commencing with a review of policy and laws. With respect to the implementation of VMS he encouraged countries to emphasize the positive aspects associated with safety of life at sea. The need to encourage informal approaches to dispute resolution between countries where IUU fishing occurred in small-scale fisheries on an occasional basis was highlighted.

93. Dr Funge-Smith in his comments noted that the lack of a uniform global vessel registry data was a constraint to effective information sharing. This was particularly an issue in those countries where licences were issued to joint venture arrangements, which were a predominant form of access arrangement in the subregion. The ongoing development of the global record in FAO could assist in resolving this matter. He noted also that mechanisms for the notification of IUU fishing to flag States needed to be improved. Some harmonized penalties and measures should be introduced for IUU fishing coupled with improved application. Contact and coordination between fisheries agencies in the subregion remained problematic and direct contact between fisheries agencies might be difficult,

particularly if contact between countries was strictly controlled or formalized and conducted through the ministries of foreign affairs. This was a slow process and often led to a breakdown in the communication process. The establishment of a mechanism for contact between fisheries departments would greatly facilitate rapid communication on IUU fishing issues and the lodging of requests for action to be taken.

94. Dr Funge-Smith noted that the development of NPOAs–IUU had not occurred in any country in the subregion. This was despite the fact that the elaboration of a NPOA–IUU was a critical first step in understanding the extent and nature of IUU fishing and in developing a strategic approach and priorities on how to address it. He added that a dedicated regional Web site for sharing information on NPOAs–IUU, port State measures and IUU fishing for the subregion could be a good starting point. He suggested that any of the competent regional organizations could initiate this activity.

95. In discussion following the presentations, the Workshop agreed that there was a clear need for lower-level communication and dialogue mechanisms between fisheries agencies. Such mechanisms should also include the possibility of resolving issues relating to occasional IUU fishing by the small-scale fleet in transboundary incursions. In situations where there were security implications, this could become more complex as fisheries matters were concluded only after security considerations were resolved. The Workshop noted that bilateral memoranda of understanding (MoU) could be an appropriate mechanism to initiate this process.

96. It was noted that the review and revision of fisheries legislation were considered important even though the timeframe for such work was usually lengthy. In many cases, current legislation was inadequate to address IUU fishing and related activities. This meant that when vessels were detained in relation to IUU fishing, prosecution was constrained because it did not adequately cover the offences involved.

97. The Workshop also agreed that a lack of clear mandates and coordination among relevant departments constrained the effective implementation of port State measures. It was pointed out that in one country in the region the maritime department had delegated authority to the fisheries department for the registration of fishing vessels. It was noted that to effectively implement port State measures, the clear mandating of national authority to enact and coordinate these measures was an important step.

#### **Thematic working groups: legal aspects and inspection procedures**

98. Two thematic working groups were formed to review aspects of the Chairperson's draft Agreement with a view to developing bilateral, subregional or regional implementation strategies. Each group was requested to:

- indicate whether their national laws and procedures are generally adequate to implement the relevant areas of the Chairperson's draft Agreement, and if not the areas of focus for implementation; and
- suggest bilateral, subregional and/or regional mechanisms that may be needed to implement the relevant areas, as specifically as possible (e.g. through APFIC, intergovernmental organizations, bilateral arrangements, etc);

99. The working groups were requested to focus their discussions on:

- Group 1: legal aspects focusing in general on Parts 1 to 5 of the Chairperson's draft Agreement (Information prior to entry: Article 8, Annex A; Part 3 – Use of ports, etc.; Part 5 – Flag States and Article 16, Annex E); and
- Group 2: inspection procedures (Articles 11, 12: Annex B); results of inspections (Articles 13, 14: Annex C) and information systems (Article 15: Annex D).

100. The reports of the thematic working groups are in Appendix I.

101. In commenting on the presentations, Ms Swan stated that the working groups had come to grips admirably with the provisions in the Chairperson's draft Agreement and what they meant for the South Asian subregion. She remarked that the recommendations for training in port State measures reflected the appreciation of both groups on the need for human capacity development as the draft Agreement was finalized and entered into force. Addressing the conclusions of Group 1, she noted that the areas identified for inclusion, such as advance notification, elements of training guidelines, and needs for national fisheries issues reflected clear needs for South Asia and recalled that the draft Agreement represented minimum standards only. It would therefore be open to the subregion to strengthen relevant provisions at national and other levels.

102. Ms Swan added that some priority requirements for implementation in national laws had been identified by the working group, including designation of ports, refusal of entry into ports and catch certification prior to entry into ports. Further areas not considered by the working group due to time constraints could be considered at a later stage by national experts, including the definitions, application and scope of the draft Agreement. Importantly, the working group acknowledged that bilateral agreements would be needed to exempt artisanal vessels of neighbouring countries from the application of the Agreement. In addition, with respect to information requirements under the draft Agreement, the requirements for port States and port States in their role as flag States should be addressed. Finally, Ms Swan recalled the information discussed earlier in the Workshop on the role that regional organizations, such as APFIC or the Bay of Bengal-Large Marine Ecosystem (BOB-LME) might play in information exchange. She recalled the breadth and importance of the legal implications and referred to Article 33 of the draft Agreement that encourage provisional application by Parties prior to entry into force of the Agreement.

103. Ms Swan commented that Group 2 had recommended some key institutional mechanisms, which represented both costs and benefits for implementation. The need for a responsible authority with a clear-cut mandate for implementation of port State measures was paramount. She added that the authority could provide an impetus for early consideration by countries for initiation of the relevant policy, legal and institutional processes. Identification of resources and facilities for training and supporting inspectors would be very important, and cooperation on possible bilateral, subregional and regional mechanisms should be considered. She added that a third broad area identified by the working group would be key to future operations was communication. This would include the preparation and transmission of reports and the establishment of a communication system and Web site. It was noted that the efficiency of a communication system would be vital due to possible legal consequences. Ms Swan also drew attention to diplomatic and legal consequences of failure to communicate. Early determination of a home for a Web site would be beneficial even before the entry into force of the Agreement. She observed that a regional body might be considered for this role.

104. The working group expressed concern that Article 17 should be reconsidered because countries already denied foreign vessels entry into their ports as a matter of policy. The Chairperson's draft Agreement provided currently that States might deny a vessel entry into port if it had been denied entry already by another country. Regarding the working group's recommendation to delete Articles 18 and 19 relating to appeals and compensation, Ms Swan noted that this was currently a controversial issue and not yet agreed by the Technical Consultation.

105. In his commentary, Mr Kuemlangan thanked the working groups for their thorough review of the basic tenets of the Chairperson's draft Agreement and their pragmatic suggestions. He noted the groups' recognition of the clear application of the draft Agreement to foreign vessels and the need for port State measures to apply also to national vessels and activities undertaken in national waters. The focus of the draft Agreement on foreign vessels was deliberate as sovereign port States could apply the measures under the draft Agreement to national vessels if they chose to do so. Although this right needed not be stated in the draft Agreement, this international law principle was acknowledged clearly



in the draft Agreement. It encouraged countries to apply port State measures under the draft Agreement to national vessels, as appropriate.

106. Mr Kuemlangan acknowledged the particular characteristics of the subregion as emphasized by the working groups (i.e. the fact that only foreign fishing vessels under joint venture arrangements and licensed foreign fishing vessels were permitted to enter ports). The Workshop was informed that the Chairperson's draft Agreement applied also to transport vessels (e.g. reefers and container vessels) where transported fish that had not been landed already. Consequently, legislative review and revision might be required to ensure that this aspect was covered in collaboration with national port and maritime authorities.

107. Mr Kuemlangan highlighted the need for inter-subregional exchanges of information. As pointed out in the Workshop, such exchanges could be facilitated by regional bodies such as APFIC, IOTC and BOBP-IGO. Countries might wish to join other mechanisms such as the International MCS Network for exchanging information and establishing MCS contacts.

108. In discussion following the presentations by the working groups, the tenet of State sovereignty was reinforced, noting that a port might deny entry to any category of vessel, such as foreign vessels, as long as the category was well defined and denial was effected in a fair, non-discriminatory and transparent manner. However, an exception was *force majeure*, where vessels must be allowed entry to port in accordance with international law. This situation was reflected in the Chairperson's draft Agreement.

109. The issue of trade implications was raised in relation to denial of entry into port and it was explained that, in general, international trade law prohibited non-tariff barriers. However, an exception for this was sanitary and phytosanitary measures.

110. The question was raised about the need for implementing legislation where a country's policy prohibited foreign vessels access to any of its ports. It was noted that national legal advice should be sought on this matter. This was because a policy change might be required so as to enable the implementation of the draft Agreement.

### **BRAINSTORMING: LOOKING AHEAD – AN AGENDA FOR THE SUBREGION ON PORT STATE MEASURES**

111. Dr Abdulla Naseer, Permanent Secretary, Ministry of Fisheries and Agriculture, Male, Maldives, led discussion in this session of the Workshop. It focused on:

- aims and targets for action by countries;
- national measures and mechanisms that could be used to implement harmonized port State measures; and
- scope for the implementation of the Chairperson's draft Agreement in the South Asian subregion: strengths and constraints.

112. The Workshop agreed on the following agenda for the subregion on port State measures:

#### **Aims and targets for action by countries**

- Recommend that countries participating in BOB-LME develop a Regional Plan of Action to Combat IUU Fishing (RPOA-IUU). This might include recommendations on broader information issues relating to IUU fishing;
- Take measures to combat IUU fishing, including, as appropriate: a national policy that includes elements to combat IUU fishing, requests by member countries to BOBP-IGO to encourage the preparation of NPOAs-IUU based on a RPOA-IUU and the implementation of port State measures through law and procedures.

- Review national legislation taking a multidisciplinary and interagency approach. Steps for such a review should include correlating provisions with the Chairperson's draft Agreement, identifying gaps and proposing provisions to be incorporated to implement the draft Agreement;
- Take a general top-down approach, where possible, for the harmonization of laws at a subregional or regional level, taking into account the common legal history of the subregion with an aim to achieve effective port State measures;
- Initiate awareness campaigns for the need to amend the legal framework and otherwise implement port State measures in each country as soon as possible through multidisciplinary industry and intergovernmental agency workshops, in collaboration with stakeholders such as fishers' cooperatives, fish processors and media. Members should request BOBP-IGO to assist with such a campaign, particularly with respect to smaller-scale fishers, as well as other regional bodies and mechanisms, as appropriate, for other subsectors such as IOTC and APFIC;
- Establish partnerships between government and industry to encourage relationships with industry;
- Train inspectors and observers in appropriate and effective training programmes according to country circumstances. Empower agencies responsible for aspects of vessel inspection that might have engaged in IUU fishing activities and ensure the training of relevant personnel;
- Review procedures and machinery for inspection. In particular a designated authority with adequate powers should be created in each country for port inspections. Coordination among agencies should be clear. A programme of capacity building should be established to ensure an adequate level of trained inspectors. An example of a mechanism that could contribute to training and awareness raising would be workshops on fisheries prosecutions involving the full spectrum of activities and agencies from inspection through enforcement and judicial or administrative proceedings;
- Initiate, as a matter of priority, a programme of awareness raising for all stakeholders including industry, relevant government agencies, joint ventures and others;
- Seek support for a regional training course and/or technical input for port inspectors;
- Establish linkages among fisheries and other relevant administrations in the region, noting the range of aspects involved in port State measures and IUU fishing. To this end, develop a regional directory identifying contacts for appropriate administrations and a communications system among the contacts using a dedicated regional Web site for port State measures and IUU fishing. Each country should designate an officer(s) responsible for information to ensure simplicity of operation. In addition, a "hotline" system should be identified for immediate situations; this would encourage rapid problem-solving at the same time;
- Request APFIC to enquire among its members whether it could establish a regional Web site dedicated to port State measures along the lines described above;
- Acknowledging that port State measures might involve two or more countries, a dispute settlement mechanism should be agreed that could respond quickly and effectively to any situation. Where the flag State undertakes to intervene on behalf of the vessel in question, dispute settlement could become complicated and clarity of procedures in the subregion should be developed to avoid costs and undue delays. Dispute settlement mechanisms need to be streamlined in the subregion, particularly to preserve developing country rights. For disputes that occur among neighbouring countries, bilateral agreements and MoUs should be reviewed periodically. For port State measures where the flag State, port State and possibly another coastal State are involved, quick and effective settlement dispute resolution will require the use of a neutral agency, mindful of requirements to settle disputes peacefully. An appropriate agency in the subregion should be encouraged as an option.

### **National measures and mechanisms that could be used to implement harmonized port State measures**

- With respect to national laws, the policies of certain countries were noted where foreign vessels were dealt with separately, including prohibiting their access to port. In this regard, minor amendments would be needed rather than a comprehensive overhaul of legislation. However, once a country became Party to the Agreement, there would be no looking back;
- Regulations existed in other countries to control IUU fishing, such as the detention of vessels, but implementation and amendment of port State measures could be problematic. In this sense, the Chairperson's draft Agreement, once finalized, could serve as an impetus for moving forward;
- Countries should request technical assistance for experts to visit each country, meet with concerned officials and review legislation with the objective of recommending amendments to implement the Chairperson's draft Agreement as it is finalized. The importance of harmonization of legislation throughout the subregion and the lead role of the fisheries agencies were noted, as well as the need for all countries to be compliant on port State measures;
- For bilateral agreements, some countries were currently negotiating a bilateral agreement. If there was a bilateral agreement, multilateral interventions should not be required. There was a preference for bilateral arrangements; and
- RFMO/A schemes should take into account the conditions of the region and requirements of developing countries. As appropriate, training might be sought through regional organizations and mechanisms;

### **Scope for the implementation of the Chairperson's draft Agreement in the South Asia subregion: constraints and strengths**

- In general, the Workshop endorsed the constraints and strengths described in the reports of the working groups;
- Member countries would need to examine thoroughly the Chairperson's draft Agreement and assess constraints and strengths before deciding whether to become a Party;
- It was acknowledged that the process to review the agreed instrument could be very lengthy, and agreed that technical assistance would facilitate understanding and national procedures. The correct machinery must be in place for the future;
- Countries should begin the process to review the Chairperson's draft Agreement at an early time; and
- It was noted that the credibility of FAO is high among the countries in the region, and the political will can be mobilized when FAO is piloting the work. The voluntary sector, including NGOs, also have a strong role to play in mobilizing political will.

### **CLOSURE OF THE WORKSHOP**

113. Ms Swan commended the participants and FAO colleagues for the exceptionally high standard of their contributions involving preparatory work, presentations, discussions and participation in working groups during the Workshop to identify priorities and ways forward for future consideration. In this regard, she noted the recommendations of the Workshop that identified key roles that might be played by governments and relevant regional bodies. She thanked the Governments of Norway, Sweden and the United States of America and the FAO Regular Programme for supporting the Workshop and expressed gratitude to the FAO Regional Office for Asia and the Pacific for contributing to the organization and effectiveness of the Workshop. In conclusion she reiterated the priorities of the international community in concluding the legally-binding Agreement, noting that this would inspire a new era in efforts to combat IUU fishing and the commitment of the participants to promote the strengthening and harmonization of port State measures to this end.

114. Dr Funge-Smith thanked the participants for their commitment to the Workshop. The ability to focus on the specific issues of South Asian countries in the Workshop was an important contribution to the development of global consensus and awareness raising on the use of port State measures to combat IUU fishing. He noted that there was a continuing need for further awareness raising in the subregion to ensure that the opportunities provided by the application of port State measures could be capitalized upon to restrict IUU fishing and limit the drain of revenue and resources from the subregion's fisheries. A shift in perception was also necessary to appreciate that IUU fishing should not be viewed as exploitation of the opportunity to access a resource before other competitors, but in fact was equivalent to theft and should be treated as such. Countries in the subregion should look strategically at how they would address IUU fishing and port State measures in order to ensure their ability to maintain trade, open future opportunities and prevent their ports from being exploited by IUU fishing operations. This Workshop and the thirtieth session of APFIC in August 2008 had demonstrated the clear commitment by countries in the subregion to address IUU fishing. This commitment should be commended and deserved continued support. Dr Funge-Smith thanked FAO and the Governments of Norway, Sweden and the United States of America for their support to the Workshop.

115. On behalf of the participants, Mr B.N. Nanda, Director (Fisheries), Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, New Delhi, India, expressed his deep sense of appreciation to FAO for organizing this Workshop and to Governments of Norway, Sweden and the United States of America for funding it. He added that the Workshop had provided an excellent opportunity for all participants to become acquainted with the concept of IUU fishing and measures that might be adopted by countries to regulate and mitigate IUU fishing through the implementation of port State measures. Returning to their countries, Mr Nanda said that the participants were taking back a great deal of knowledge about IUU fishing and port State measures as well as memories of a pleasant stay in Bangkok.

116. The Workshop closed at 13.00 hours on 13 February 2009.

**Agenda**

Opening of the workshop

Background and international framework for port State measures

Subregional and regional approaches to IUU fishing and port State measures

Chairperson's draft Agreement on port State measures and role of APFIC

National coordination and implementation of port State measures

National laws for the implementation of port States measures

Formation of the working groups and their reports and conclusions

Brainstorming: looking ahead – an agenda for the subregion on port States measures

Closure of the workshop

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**List of documents**

Chairperson's Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

<ftp://ftp.fao.org/FI/DOCUMENT/tc-psm/2009/PSMAgreement.pdf>

FAO. 2007. Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. In FAO. 2007. Report of the Expert Consultation to Draft a Legally-binding Instrument on Port State Measures. FAO. Rome. 35p.

<http://ftp.fao.org/docrep/fao/010/a1375e/a1375e00.pdf>

FAO. 2007. Fishing capacity management and IUU fishing in Asia. RAP Publication 2007/16. 28p.

<http://www.apfic.org/modules/wfdownloads/singlefile.php?cid=41&lid=207>

FAO. 2006. Report of the FAO Regional Workshop on the Elaboration of National Plans of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing: Southeast Asia Subregion. FAO Fisheries Report No. 757. FAO. Rome. 88p.

<http://www.fao.org/docrep/007/y5849e/y5849e00.htm>

FAO. 2005. FAO Model Scheme on Port State Measures to Combat IUU Fishing. FAO. Rome. 46p. (English, French and Spanish languages in single volume)

<http://www.fao.org/docrep/010/a0985t/a0985t00.htm>

FAO. 2001. FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. FAO. Rome. 24p.

<http://www.fao.org/DOCREP/003/y1224E/Y1224E00.htm>



**Opening statement**  
**by**  
**Mr He Changchui**  
**Assistant Director-General and**  
**FAO Regional Representative for Asia and the Pacific**  
**Bangkok, Thailand**

Ladies and gentlemen,

It is my pleasure to extend a warm welcome to each and all of you on the occasion of the opening of the *Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the South Asia Subregion*, jointly organized by the Asia-Pacific Fishery Commission (APFIC) and the Food and Agriculture Organization of the United Nations (FAO). The FAO Regional Office for Asia and the Pacific is indeed honoured and pleased to be part of this forum aimed at considering options for cooperative action in the subregion.

Seven years ago, FAO members adopted in the 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). As a result of subsequent consultations convened by FAO between 2002 and 2004, the Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing was endorsed by the FAO Committee on Fisheries (COFI) in 2005, urging countries to give priority to the operationalization of the Model Scheme.

Since then, the international community has intensified its resolve to strengthen port state measures even further. Over the past two years there have been repeated calls in international fora for a binding international instrument on port state measures, to be developed and based on the Plan of Action and the Model Scheme. As a result, the 2007 twenty-seventh session of COFI established a process that is likely to result in the development of such an instrument. To this end, a FAO Expert Consultation to Draft a Legally-binding Instrument on Port State Measures was held in the United States of America in September 2007, and a FAO Technical Consultation to review the draft Agreement took place in June, 2008 and will continue in January, 2009. The next session of COFI, in March, 2009, will be informed of the outcome.

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

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

As a result, a growing number of countries, mindful of the value of port state measures and the need for their harmonization, are developing, or have adopted through regional fishery bodies (RFBs), strengthened measures and regional schemes. Human capacity development programmes often accompany these important actions. Such regional cooperation and coordination will assist greatly in reinforcing national efforts and deterring the operation of “ports of non-compliance”, where countries

are unable or unwilling to apply effective port state measures. However, in a region such as ours, without the benefit of comprehensive coverage by regional fisheries management organizations, a creative approach will have to be developed to achieve the needed cooperation and coordination.

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

Ladies and gentlemen,

This is the sixth in a series of regional workshops on port state measures in which FAO has been involved. We acknowledge with gratitude the many organizations and governments that support this important series of workshops, including our partner in the delivery of this present workshop, APFIC. Special recognition and gratitude is also extended to the donors, the Governments of Norway, Sweden and the United States of America, that are supporting this workshop. Support is also coming from the FAO Regular Programme.

The considerable scope of interest and support received to date reflects a broad-based appreciation of the potential impact of strengthened and harmonized port State measures.

Ten participants from five countries in the South Asian subregion are attending this four-day workshop, and have the opportunity to interact with international and regional experts during discussion periods. The participants will form working groups to consider the development of regional standards for port State measures based on the Model Scheme, and, based on prevailing circumstances in the region and use of complementary compliance tools, recommend measures that can best implement port State controls in the South Asian subregion.

The workshop also affords a valuable opportunity to discuss issues that may eventually be considered in the context of a binding international instrument on port state measures. I am thus anticipating outcomes of a very high standard.

Bringing this workshop to fruition has been a true team effort. I wish to extend my thanks to those in APFIC and FAO who have worked together to ensure that enduring outcomes will be achieved for the benefit of all.

I wish you all a full and very productive workshop.

Thank you very much, ladies and gentlemen, for your attention.

I hereby declare the workshop open.

Summary table of the responses to the country questionnaire relating to port State measures in the South Asian subregion

		Bangladesh	Maldives	Sri Lanka	Pakistan	India
1	Ports	<ul style="list-style-type: none"> <li>Chittagong Port</li> </ul>	<ul style="list-style-type: none"> <li>Malé Commercial Harbour</li> </ul>	<ul style="list-style-type: none"> <li>Mutwal Fishery Harbour Colombo 15</li> <li>Galle Commercial Harbour, Galle</li> </ul>	<ul style="list-style-type: none"> <li>Korangi Fish Harbour (KoFH)</li> <li>Karachi Port Trust (KPT)</li> </ul>	<ul style="list-style-type: none"> <li>There are 12 major ports in India. However, no foreign fishing vessels are allowed to fish in Indian EEZ as per policy</li> </ul>
2	Port calls	<ul style="list-style-type: none"> <li>Only by joint venture fishing vessel and the number of port calls is 140–150</li> </ul>	<ul style="list-style-type: none"> <li>150 vessels in 2008; so around 125–175 vessels per year</li> </ul>	<ul style="list-style-type: none"> <li>Two</li> </ul>	<ul style="list-style-type: none"> <li>0–51 per year: Port calls are made only by licensed fishing vessels operating under joint venture which are under strict control / monitoring and are almost unable to undertake IUU fishing as these are tracked through VMS, monitored by Government inspectors on board each vessel and are subject to port inspection upon entry into the port and/or prior to departure from EEZ of Pakistan</li> <li>However, number of port calls depends upon the number of licensed vessels operating in the Zone. During peak, an average number of 51 port calls are made in a year; but, during certain years the number of port calls per year is zero</li> </ul>	<ul style="list-style-type: none"> <li>0</li> </ul>

		<b>Bangladesh</b>	<b>Maldives</b>	<b>Sri Lanka</b>	<b>Pakistan</b>	<b>India</b>
3	Please describe the agency of agencies in your country have responsibilities for port control and inspection of fishing vessels, and outline their mandates and human capacity	<ul style="list-style-type: none"> <li>▪ Marine Fisheries Office, Chittagong</li> <li>▪ Mercantile Marine Department</li> <li>▪ Chittagong Port Authority</li> <li>▪ Coast Guard and Bangladesh Navy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Maldives Ports Limited (two months ago Maldives Ports Authority)</li> <li>▪ Ministry of Fisheries and Agriculture</li> <li>▪ Ministry of Housing, Transport, and Environment (Ports and Maritime Transport Section)</li> <li>▪ Ministry of Economic Development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Department of Fisheries and Aquatic Resources</li> <li>▪ Ceylon Fisheries Harbours Corporation</li> <li>▪ Department of Immigration and Emmigration</li> <li>▪ Port health Control Division</li> </ul>	<ul style="list-style-type: none"> <li>▪ Marine Fisheries Department (MFD)</li> <li>▪ Maritime Security Agency (MSA)</li> <li>▪ Mercantile Marine Department (MMD)</li> <li>▪ Port authorities: KPT; KoFHA</li> <li>▪ Other: Customs; Immigration, etc.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Department of Shipping under the Ministry of Shipping, Road Transport and Highways</li> <li>▪ Port Trust Authorities</li> <li>▪ Directorate General of Shipping under Ministry of Shipping</li> <li>▪ Registrars/Mercantile Marine Department (MMDs) under DG, Shipping</li> <li>▪ Department of Animal Husbandry, Dairying and Fisheries under Ministry of Agriculture</li> </ul>
4	Please describe the major strengths faced by these agencies in the effective implementation of port State measures	<ul style="list-style-type: none"> <li>▪ One marine fisheries surveillance check post</li> <li>▪ Two office in total coastal area</li> </ul>	<ul style="list-style-type: none"> <li>▪ Motivated staff, and knowledge about the species being caught. Good seafaring experience of the Maldivians</li> </ul>	<ul style="list-style-type: none"> <li>▪ These institutions have Legal authority and sufficient number of staff</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mandate and coordination is satisfactory</li> </ul>	<ul style="list-style-type: none"> <li>▪ Tasked with registration of ships and fishing vessels</li> </ul>
	Please describe the major constraints faced by these agencies in the effective implementation of port State measures	<ul style="list-style-type: none"> <li>▪ No vessel for proper monitoring</li> <li>▪ Inadequate number of qualified manpower</li> <li>▪ Lack of sufficient aids/equipments</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of specific training of fishing vessel inspection no information about vessel inspection from the Ministry of Fisheries.</li> <li>▪ Lack of coordination between Fisheries Management Unit and the Ministry of Economic Development. Lack of</li> </ul>	<ul style="list-style-type: none"> <li>▪ Training on implementations of Legal measures</li> <li>▪ Lack of proper infrastructure facilities</li> </ul>	<ul style="list-style-type: none"> <li>▪ However, in order to further promote effectiveness of port state measures, there is a need of capacity building/awareness/ training in regional and global conservation and management measures</li> </ul>	<ul style="list-style-type: none"> <li>▪ Difficulty faced in case of large numbers of mechanized fishing vessels (about 54 000) which operate in coastal waters</li> </ul>

		<b>Bangladesh</b>	<b>Maldives</b>	<b>Sri Lanka</b>	<b>Pakistan</b>	<b>India</b>
			<p>adequate human resources for port inspection and related development activities. Lack of financial resources that can be channeled for these developments</p> <ul style="list-style-type: none"> <li>▪ Lack of human resources. Previously the Maldives Ports Authority doubles as regulatory function and ports function. However, the Maldives Ports Authority has been change to Maldives Ports Limited (a public limited company). The port regulatory functions are yet to be developed within the Ministry</li> <li>▪ Lack of trained people</li> </ul>			
5	Please identify the legislation in your country relating to the implementation of port State measures, briefly assess its adequacy for implementing the port State measures in the draft FAO Agreement on Port State Measures and	<ul style="list-style-type: none"> <li>▪ Marine Fisheries Ordinance 1983 and rules there under</li> <li>▪ Mercantile Marine Ordinance 1983 and rules there under</li> </ul>	<ul style="list-style-type: none"> <li>▪ Fisheries Law</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legislation under Fisheries and Aquatic Resources Act no.2 of 1996 and Harbour Corporation Act comply with some of the measures recommended by FAO on IUU fishing</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Exclusive Fishery Zone (Regulation of Fishing) Act, 1975</li> <li>▪ The Exclusive Fishery Zone (Regulation of Fishing)Rules, 1990</li> <li>▪ Deep Sea Fishing Policy, 1995 as amended in 2001</li> <li>▪ Maritime Security Act, 1994</li> <li>▪ National policy and</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Indian Ports Act, 1908</li> <li>▪ The Major Port Trust Act, 1963</li> <li>▪ The Merchant Shipping Act, 1958</li> <li>▪ The Maritime Zones of India (MZI) Act, 1981</li> </ul>

		Bangladesh	Maldives	Sri Lanka	Pakistan	India
	estimate how frequently it is used to combat IUU fishing.				strategy for fisheries and aquaculture development in Pakistan (2006)	
	ADEQUACY, FREQUENCY	<ul style="list-style-type: none"> <li>▪ Medium</li> <li>▪ Frequent</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low</li> <li>▪ Never</li> </ul>	<ul style="list-style-type: none"> <li>▪ Medium</li> <li>▪ Frequent</li> </ul>	<ul style="list-style-type: none"> <li>▪ Medium</li> <li>▪ Frequent</li> </ul>	<ul style="list-style-type: none"> <li>▪ High</li> <li>▪ Frequent</li> </ul>
6	Does your country require the foreign or joint venture fishing vessels to provide information prior to entering into port?	<ul style="list-style-type: none"> <li>▪ Always</li> <li>▪ 24 Hours</li> </ul>	<ul style="list-style-type: none"> <li>▪ Always</li> <li>▪ Yes, Maldives Fishery Law requires fishing vessels (joint venture or otherwise) to obtain permission 48 hours before entering into EEZ of the country</li> </ul>	<ul style="list-style-type: none"> <li>▪ Always</li> </ul>	<ul style="list-style-type: none"> <li>▪ All the vessels are always required to provide information prior to entry into port. Only licensed joint venture fishing vessels enters into port. In case the vessel returns from fishing ground , it has to produce information at least 02 days in advance</li> </ul>	<ul style="list-style-type: none"> <li>▪ “Yes”; Always</li> <li>▪ At least 72 hrs in advance</li> </ul>
7	Does your country deny the use of its port to non-national fishing vessels that are believed to have engaged in IUU fishing?	<ul style="list-style-type: none"> <li>▪ Always</li> <li>▪ Bangladesh always refuses to use its ports for non-national fishing vessels</li> </ul>	<ul style="list-style-type: none"> <li>▪ Never</li> <li>▪ There no active monitoring, control and surveillance of the port</li> </ul>	<ul style="list-style-type: none"> <li>▪ Never</li> </ul>	<ul style="list-style-type: none"> <li>▪ Always: law does not permit</li> </ul>	<ul style="list-style-type: none"> <li>▪ Yes, Always</li> <li>▪ The foreign fishing vessels are not allowed to fish in Indian EEZ</li> </ul>
8	Does your country carry out port inspections of non-national fishing vessels in port?	<ul style="list-style-type: none"> <li>▪ Always</li> <li>▪ Bangladesh always refuses to use its ports for non-national fishing vessels</li> </ul>		<ul style="list-style-type: none"> <li>▪ Always</li> </ul>	<ul style="list-style-type: none"> <li>▪ Only the licensed joint venture fishing vessels enters into the ports</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not Applicable</li> </ul>
9	Does your country take measures against vessels found to have IUU-caught fish aboard during port inspection?	<ul style="list-style-type: none"> <li>▪ Always</li> <li>▪ For last 15 years Coast Guard and Bangladesh Navy identified more than 50 fishing vessels engaged in IUU fishing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Always</li> </ul>	<ul style="list-style-type: none"> <li>▪ Sometimes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Possibility of undertaking IUU fishing by licensed fishing vessels is zero since they are monitored round the</li> </ul>	<ul style="list-style-type: none"> <li>▪ Strict provisions exist</li> <li>▪ However, no such incident has come to notice</li> </ul>

		<b>Bangladesh</b>	<b>Maldives</b>	<b>Sri Lanka</b>	<b>Pakistan</b>	<b>India</b>
		and arrested the vessels and handed over the Marine Fisheries Department (MFD). Marine Fisheries Department finally disposed up the vessels through auction			clock through VMS as such they can not leave allocated fishing area. However, there is a provision in the law for heavy penalties, confiscation of catch and cancellation of fishing licence on violation of any of the provisions of the legislation	
10	How would you describe your country's human capacity/resources to carry out port inspections?	<ul style="list-style-type: none"> <li>Inadequate</li> </ul>	<ul style="list-style-type: none"> <li>Inadequate</li> </ul>	<ul style="list-style-type: none"> <li>Inadequate</li> </ul>	<ul style="list-style-type: none"> <li>Human capacity is adequate; however, there is a need of their training and awareness</li> </ul>	<ul style="list-style-type: none"> <li>Adequate</li> </ul>
11	Is your country a member of a regional fisheries management organization (RFMO)? (If "yes" please identify the RFMO(s))	<ul style="list-style-type: none"> <li>Yes: BOBP-IGO</li> </ul>	<ul style="list-style-type: none"> <li>No (in the true definition of the RFMO/A as in the Agreement)</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>Yes; IOTC</li> <li>Lack of general awareness of the requirements, international instruments and methodology</li> <li>Financial constraints to attend regular meetings of RFMO/A</li> <li>Lack of regional network of information</li> </ul>	<ul style="list-style-type: none"> <li>India is member of following RFMO/As: IOTC, BOBP-IGO, APFIC, IOR-ARC, BOBLME, NACA</li> </ul>
12	Please indicate up to three major constraints or problems in implementing port State measures in	<ul style="list-style-type: none"> <li>Duel authority for registration and licence for fishing vessel</li> <li>Office for registration and licence is limited</li> <li>No VMS in the water</li> </ul>	<ul style="list-style-type: none"> <li>A second constraint is the lack of human and financial capital and resources to develop and implement such measures. Other</li> </ul>	<ul style="list-style-type: none"> <li>Most of the local legislation is available but lack of trained staff</li> <li>Inadequacy of infrastructure facilities</li> <li>Inaccuracy of the data</li> </ul>	<ul style="list-style-type: none"> <li>Lack of regional cooperation and harmonization</li> <li>Lack of suitably trained manpower</li> <li>Lack of communication</li> </ul>	<ul style="list-style-type: none"> <li>Lack of awareness about issues of port State measures in implementing agencies and unidentified major issues</li> </ul>

		Bangladesh	Maldives	Sri Lanka	Pakistan	India
	your country	area of Bangladesh	<p>development priorities (health, education, social infrastructure development) take a high priority that control of illegal fishing, which seems to be trivial in the Maldives</p> <ul style="list-style-type: none"> <li>▪ Lack of understanding on the important of sustainable management of the fisheries is resources</li> <li>▪ Difficulties in reaching consensus in the government ministries (Lack of political will?)</li> </ul>		system and network.	<ul style="list-style-type: none"> <li>▪ Communication gap in between the agencies responsible for implementation of port State measures</li> <li>▪ VMS should be started</li> </ul>
13	Please suggest up to three ways of how to overcome the constraints or problems identified in Question 12.	<ul style="list-style-type: none"> <li>▪ One window facility for registration and licence</li> <li>▪ Need to increase registration and licence Office</li> <li>▪ Introduce VMS</li> </ul>	<ul style="list-style-type: none"> <li>▪ A PR campaign about the IUU and importance of sustainable management. Material need to be in local language. The message has to reach to the fishermen. This has to take part along with HR capacity development</li> <li>▪ Effective regional cooperation among countries (Presently many countries lack the expertise)</li> <li>▪ Development support</li> </ul>	<ul style="list-style-type: none"> <li>▪ Introducing relevant FAO Legislation on IUU fishing into local legislation</li> <li>▪ Training of fisheries inspectors, harbour managers and relevant staff on the subject</li> <li>▪ Develop infrastructure facilities to combat IUU fishing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop a model frame work to assist cooperation and harmonization</li> <li>▪ Assistance in establishing satellite data communication system network</li> <li>▪ Assistance in training and development of manpower at gross root level</li> </ul>	<ul style="list-style-type: none"> <li>▪ Major issues of port State measures need to be identified. Proper Enforcement of Marine Fishing regulation in the EEZ</li> <li>▪ Better coordination and cooperation is required amongst the implementing agencies</li> <li>▪ Setting up of VMS all along the coastline &amp; EEZ</li> </ul>



		<b>Bangladesh</b>	<b>Maldives</b>	<b>Sri Lanka</b>	<b>Pakistan</b>	<b>India</b>
			and technical cooperation from the developed (OECD or development partners)			
14	Please suggest up to three key areas for future regional cooperation in the strengthening and harmonization of port State measures to combat IUU fishing.	<ul style="list-style-type: none"> <li>▪ Demarcation of territorial and EEZ area of sea</li> <li>▪ Fishing agreement for highly migratory fish species</li> </ul>	<ul style="list-style-type: none"> <li>▪ Information sharing. Workshops and exchange of information on port related activities</li> <li>▪ Common interactive (forms etc) web-portals for reporting of illegal activities and follow up</li> <li>▪ HR capacity building</li> </ul>	<ul style="list-style-type: none"> <li>▪ To introduced a uniform legislation in the member countries of the region</li> <li>▪ Mutual understanding and cooperation among the countries of the region</li> <li>▪ Identification of fishing areas in the region and joint access for combating</li> </ul>	<ul style="list-style-type: none"> <li>▪ Harmonization of national legislation with international requirements</li> <li>▪ Mechanism for the effective and timely sharing and exchange of information/data</li> <li>▪ Cooperation between states and RFMO/As</li> <li>▪ Capacity building</li> </ul>	<ul style="list-style-type: none"> <li>▪ Discussion on FAO Draft Agreement– A Legally-Binding Instrument on port State measures to prevent, deter and eliminate IUU fishing</li> <li>▪ Strengthen database of IUU fishing vessels, timely updating of the same; as well as Exchange of information/data among RFMO/As at regular intervals</li> <li>▪ Identification of key issues of port State measures in the subregion and possible solutions to overcome the problems at regional levels</li> </ul>
15	Please suggest up to three mechanisms for future cooperation to address the “areas” identified in Question 14.	<ul style="list-style-type: none"> <li>▪ Intergovernmental agreement</li> <li>▪ Multigovernmental agreement</li> </ul>	<ul style="list-style-type: none"> <li>▪ Subregional workshops, visits to country A to country B on learning about the ports state measures and vice-versa</li> <li>▪ A single interactive Web page for information sharing and registry of vessels,</li> </ul>	<ul style="list-style-type: none"> <li>▪ For the relevant implementation of the proposals mentioned in 14, a dialogue and consultation by the countries in the region is necessary</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establish, at national and regional level, data recording and reporting programme</li> <li>▪ Establish more effective measures to enhance cooperation between flag states, port states and regional fisheries management</li> </ul>	<ul style="list-style-type: none"> <li>▪ Finalization of views on FAO Draft Agreement– A Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate IUU Fishing</li> <li>▪ Preparation and circulation of a model draft/bill providing</li> </ul>

	<b>Bangladesh</b>	<b>Maldives</b>	<b>Sri Lanka</b>	<b>Pakistan</b>	<b>India</b>
		licence, VMS information, etc. <ul style="list-style-type: none"> <li>▪ HR capacity building (formal university training of fisheries management and law)</li> </ul>		bodies <ul style="list-style-type: none"> <li>▪ Develop appropriate and effective programmes for general awareness, training and capacity building of responsible agencies for port control, inspections and monitoring</li> <li>▪ FAO/RFMO/As technical assistance to review and develop national legislation of the states to make them in line with international requirements</li> </ul>	base for formulation of legal mechanisms in member countries <ul style="list-style-type: none"> <li>▪ Use of state of art IT tools to gather and disseminate relevant information among these agencies</li> </ul>

**Useful databases and Web sites relating to port State measures****FAO Sources**

1. Model Scheme on port State measures to combat illegal unreported and unregulated fishing:  
<http://www.fao.org/docrep/010/a0985t/a0985t00.htm>
2. Database on Port State Measures (Port-Lex): <http://firms.fao.org/fishery/psm/en>
3. FAO Legislative data base – FAOLEX: <http://faolex.fao.org/faolex/index.htm>
4. [ftp://ftp.fao.org/FI/brochure/fishcode/cofi\\_2007/ref\\_port\\_state\\_measures.pdf](ftp://ftp.fao.org/FI/brochure/fishcode/cofi_2007/ref_port_state_measures.pdf)

**Examples of RFMO Port State Measures (PSM) Schemes or regulations**

1. North East Atlantic Fisheries Commission: [http://www.neafc.org/system/files/scheme\\_2009.pdf](http://www.neafc.org/system/files/scheme_2009.pdf)
2. Indian Ocean Tuna Commission: <http://www.iotc.org/English/resolutions.php>

**Composition of the working groups****Working Group 1: Multidisciplinary/legal aspects/information requirements/training programmes for port inspectors**

BISWAS Joydev Kumar  
DAHANAYAKA S. P. A.  
HUSSAIN Shaukat  
NANDA B. N.  
NASEER Abdulla

**Working Group 2: Multidisciplinary/inspection procedures/results of port State inspections/information systems**

ABAYASIRI E. A. A.  
HAYAT Muhammad  
JIHAD Ahmed  
PANDEY Sanjay  
UDDIN Md. Sharif

## Reports of the multidisciplinary working groups

### REPORT OF WORKING GROUP 1

**Main IUU fishing problems in the subregion that could be addressed by port State measures, distinguishing between the issues on foreign and national vessels and current and potential problems**

#### *Foreign vessels:*

- Poaching in the EEZ by unlicensed vessels;
- Illegal fishing by licensed vessels in the EEZ;
- Use of illegal fishing gear/methods;
- Catching protected and undersized species and juveniles;
- Fishing beyond stock sustenance;
- Illegal transshipment of catch at sea/international waters or in the EEZ;
- Conflicts with local fishers;
- Fishing in unlicensed/unauthorized zones (e.g. in coastal fishery zone reserved for local fishers);
- Fishing in contravention of International obligations;
- Issues relating to bycatch and discarding lower priced catches at sea; and
- Non-reporting of voyage data and catch.

#### *National:*

- Non-reporting of catch;
- Use of banned/illegal fishing gear;
- Catching protected and undersized species and juveniles;
- Fishing capacity and overfishing;
- Catching juveniles/undersized fish against regulations;
- Lack of periodic stock assessments and data;
- Unregistered national vessels fishing in the coastal areas;
- Fishing in marine reserves and protected areas; and
- Fishing in coastal waters by deep-sea vessels.

### **Strengths and constraints in implementing the measures in the Chairperson's draft Agreement**

#### *Strengths:*

- If implemented successfully this will curb IUU fishing in the region;
- The Agreement allows apprehension of illegal vessels and catch even outside their respective EEZs; and
- Jurisdiction to take action against IUU fishing goes beyond national territories.

#### *Constraints:*

- Lack of resources to implement port State measures;
- Lack of adequate capacity to implement port State measures;
- Lack of interdepartmental coordination;
- Deficiencies in laws and regulations;
- Lack of similar regulations in the region;
- Lack of adequate port facilities;
- Lack of cooperation between countries;
- Lack of uniform guidelines for the region;
- Harmonizing/review of national legislation with the draft Agreement;
- Lack of awareness amongst port states; and
- Lack of political will.

## **Solutions for overcoming the constraints in implementing the measures in the Chairperson's draft Agreement**

### *Constraints:*

- Lack of resources;
- Lack of adequate capacity;
- Lack of interdepartmental coordination;
- Deficiencies in laws and regulations;
- Lack of similar regulations in the region;
- Lack of adequate port facilities;
- Cooperation between countries;
- Lack of uniform guidelines to implement the draft Agreement;
- Harmonizing/review of national legislation with the draft Agreement; and
- Lack of awareness among States; and
- Lack of political will.

### *Solutions:*

- Developed countries assist developing countries in providing financial capital and resources to effectively implement the Agreement;
- Developed countries may assist developing countries in providing training;
- Create a body which constitutes of all concerned departments – exclusively dedicated to port State measures;
- Revise and review laws and regulations so that port State measures can be addressed;
- FAO needs to make recommendations in harmonizing regulations. Regional Consultative process necessary to be carried out by FAO or similar multilateral organization;
- Development of infrastructure, MCS and VMS;
- A nodal agency in the form of a new RFMO/A to be formed which covered all type of fisheries;
- FAO assistance;
- Revise and review laws and regulations so that port state measures can be addressed;
- Regional meetings, workshops to be organized for all relevant national agencies; and
- Nongovernmental organizations, advocacy groups, lobbying.

## **Clear steps that national fisheries administrations might take to develop port State measures that implemented the relevant measures of the IPOA–IUU and the measures in the Chairperson's draft Agreement**

- Amendment of national laws and regulations;
- Training and awareness for fishermen and fishery officials on IUU fishing;
- Translation of IPOA–IUU into national languages;
- Develop a NPOA–IUU and translation into local languages;
- Effective law enforcement;
- Develop linkages between regional fishery administrations;
- Awareness of fishery officers and fishery related personnel; and
- Train fishery inspectors and observers.

## **Recommended steps for strengthening linkages between port State measures and key compliance tools (e.g. trade, traceability, VMS and information networks)**

- Catch documentation to be developed by the fisheries departments;
- Catch certification by the national compliance authorities;
- Trade certification by food quality departments;
- Develop regional vessel registration and databases;
- All fishing vessels must be licensed by their national fisheries administrations;
- Code of Conduct for Responsible fisheries should be implemented in the member countries;

- The Code should be printed in the local languages;
- Low-cost VMS should be developed for the local fishing vessels and standardized for the subregion;
- Develop a mechanism for the notification of non compliance activities to flag States promptly;
- Measures need to be specified regionally for deterrent action and specified in the Agreement; and
- Uniform punishments by countries depending on the severity of the activity.

#### **Cooperative mechanisms to promote harmonized port State measures at bilateral, subregional or regional levels in South Asia**

- Comprehensive review of the existing regional organizations (Bay of Bengal Programme Intergovernmental Organization, IOTC) and report on their mandates;
- Development a new RFMO/A to address regional port State measures and facilitate the implementation of the Agreement;
- The South Asian Association for Regional Cooperation (SAARC) should provide the forum for the cooperation in regional fisheries management (e.g. SAARC Coastal Management Centre);
- Bilateral cooperation to be developed as exchange programmes, direct talks under the SAARC umbrella; and
- Dedicated regional Web site for information sharing on IUU fishing and port State measures.

#### **REPORT OF WORKING GROUP 2**

#### **Main IUU fishing problems in the subregion that could be addressed by port State measures, distinguishing between the issues on foreign and national vessels and current and potential problems**

##### *Issues on foreign vessels:*

- Deliberate poaching by fishing vessels in the others EEZ/waters;
- Ignorance and inability of the coastal states or countries to control the poaching;
- Inadequate monitoring;
- Lack of “a uniform global vessel-registry data”, which can reveal vessels’ history, or its engagement in IUU Fishing;
- Non-receipt of prior information by flag State;
- Inadequate monitoring of transshipment of catch; and
- Inadequate legislations.

##### *Issues on national vessels:*

- Lack of registrations;
- Open access fishing;
- Lack of coordination between the national agencies;
- Inadequate sea safety instruments; and
- Illiteracy, backwardness of fishers community.

#### **Strengths and constraints in implementing the measures in the Chairperson’s draft Agreement**

##### *Strengths:*

- Existing legislations;
- Availability of manpower;
- Existing RFMO/As; and
- Responsibilities of coastal states as signatory to international obligations.

*Constrains:*

- Lack of awareness about the issues of port State measures;
- Lack of trained manpower;
- Coordination among relevant national agencies;
- Unclear mandates of agencies;
- Lack of infrastructure, resources in implementation of port State measures; and
- Conformity of national laws with international obligations.

**Solutions for overcoming the constraints in implementing the measures in the Chairperson's draft Agreement**

- Creation of awareness on of port State measures;
- Development of human resource and capacity building;
- Proper coordination among national agencies and between countries in the subregion;
- Establishing authority or body with clear mandates and responsibilities;
- Harmonization of national legislation in compliance with the international obligations; and
- Establishing easily accessible Regional and Global database or network of information for vessel-registry database or portal.

**Clear steps that national fisheries administrations might take to develop port State measures that implemented the relevant measures of the IPOA–IUU and the measures in the Chairperson's draft Agreement**

- A national authority for implementation of port State measures might be established;
- National fisheries administrations might review the present policy and legislation(s) in view of port State measures enforcement and legal personnel;
- Developing and enhancing capacity for MCS and for training at the national and regional levels of port managers, inspectors; and
- Provisions of funds to the developing countries for implementation of port State measures.

**Recommended steps for strengthening linkages between port State measures and key compliance tools (e.g. trade, traceability, VMS and information networks)**

- Involving the fishers, processors and traders to adopt compliance to port State measures;
- Strengthening information network among the national and regional agencies; and
- Installing compliance tools, such as VMS and other tracking devices.

**Cooperative mechanisms to promote harmonized port State measures at bilateral, subregional or regional levels in South Asia**

- Strengthening mechanisms to resolve the disputes between neighboring countries;
- Ensure effective participation of the RFMO/As in adopting and promoting harmonized port State measures;
- Clear cut demarcation of the individual EEZ; and
- Involvement of international agencies like FAO.



## **Reports of the thematic working groups**

### **REPORT OF WORKING GROUP 1: Chairperson's draft Agreement**

**General observation:** the draft Agreement had not been crafted with the local fisheries and national IUU fishing issues in mind. It was more to do with international and high seas fisheries.

#### **Annex A: Information to be provided in advance by vessels requesting port entry**

- Demand for seaworthiness certificates;
- Remarks column to be added; and
- History of registration to be added.

#### **Article 3:**

It was noted that bilateral agreements would have to be drawn up in order to allow the movement of artisanal vessels between neighbouring States for small craft for which port State measures might not be applied.

#### **Article 7:**

Designation of ports and other landing terminals at sea and private landing facilities. Countries might have to develop new regulations on the proper designation of ports and terminals where fish could be landed. In the Maldives fish could be landed in any of the large processing centres or packing facilities.

#### **Article 9:**

Countries should develop new regulations if they wanted to disallow vessels that had engaged in IUU fishing. Fishing vessels could be required to submit catch certificates before they entered port. New regulations would have to be drawn up for this.

#### **Article 6 bis:**

Countries that allowed such landings should develop regulations to certify the catch before they were landed.

#### **Article 9, 1 (d) to be added:**

It had been reported that vessels from a port State had engaged in IUU fishing in the waters of neighbouring countries.

#### **Training Programmes - Annex E: Guidelines for the training of inspectors**

Additional issues for training include:

- Training on what constituted IUU fishing and what were port State measures;
- Training on national and international obligations for port State measures; and
- Relevant national and international laws and conventions.

**REPORT OF WORKING GROUP 2: Chairperson's draft Agreement****PART 4: INSPECTION AND FOLLOW-UP ACTIONS****Article 11**

- Basic legislation exists in all the member countries;
- As per requirements for port State measures, existing legislation should be reviewed, and if needed, amended to make it adequate to implement port State measures;
- In order to review existing national legislation, assistance from international and regional organizations is required to incorporate the legal provisions and inspection protocol; and
- To achieve minimum inspection standards, capacity building in terms of trained manpower and infrastructure development are required.

**Article 12**

- The present system of inspection is inadequate as improper mechanisms exist for inspection of fishing vessels;
- A proper machinery or mechanisms is needed to be developed at ports for proper inspection of vessels by well-trained manpower;
- Adequate numbers of trained inspectors (preferably having fisheries backgrounds) need to be appointed for the implementation of port State measures (also at high seas);
- Sophisticated training programme might be organized through national, regional and international organizations;
- A responsible authority with a clear-cut mandate should be established for the inspection of fishing vessels at ports by qualified and trained inspectors; and
- Adequate resources and facilities should also be provided to the inspectors for undertaking inspection as per the port State measures.

**Article 13**

- No issues; and
- Comments furnished for Articles 11 and 12 were also relevant here.

**Article 14**

- No issues;
- Comments made on Articles 11 and 12 were also relevant here;
- Capabilities of member countries to prepare inspection reports and its outward transmission to other concerned governments and organizations, as required in the draft Agreement were not adequate at present; and
- There was a need to establish faster, unified and harmonized communication systems between member countries, organizations and flag States.

**Article 15**

- A common portal or Web site should be developed to link the agencies and countries to facilitate the quick exchange of information and faster implementation of port State measures.

**Article 16**

- No issues;
- Comments made on Articles 11 and 12 were also relevant here.

**Articles 17, 18 and 19**

- Comments made on Articles 11 and 12 were also relevant here;
- As per the existing practices and policies, no foreign fishing vessels were allowed. The vessels registered under joint venture arrangements and given permits and licences for fishing in their EEZs by member countries were being allowed only to enter into the ports. Therefore, amendments were required in the legislations and laws in compliance with the Chairperson's draft Agreement on port State measures;
- Interests of member countries, particularly developing countries, needed to be taken into consideration while considering these Articles;
- These Articles were required a review and re-negotiation before the adoption of the draft Agreement;
- If appropriate, these Articles should be omitted from the draft Agreement; and
- National legislation should provide for appeal and compensation processes.

This document contains the report of the FAO/APFIC Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the South Asian Subregion, which was held in Bangkok, Thailand, from 10 to 13 February 2009. The objective of the Workshop was to develop national capacity and promote bilateral, subregional and/or regional coordination so that countries would be better placed to strengthen and harmonize port State measures and, as a result, implement further the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing and the Chairperson's Draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, if and when it enters into force.

The Workshop addressed: the background and framework for port State measures; subregional and regional approaches to illegal, unreported and unregulated fishing and the implementation of port State measures; the Chairperson's Draft Agreement and the role of the Asia Pacific Fishery Commission; national coordination and implementation of port State measures, and perspectives on port State measures, including responses to the FAO questionnaire that was circulated prior to the Workshop to collect information relating to port State measures in the South Asian subregion. Working groups were formed to enhance the participatory nature of the Workshop and as a means of engendering broader and deeper discussion on concepts and issues relating to port State measures. In the first exercise, participants addressed multidisciplinary aspects of port State measures, and in the second exercise, thematic issues were considered. The final session of the Workshop entitled "Looking ahead: and agenda for the subregion on port State measures" sought to identify key issues to be addressed by countries after the Workshop. Funding and support for the Workshop were provided by the FAO Regular Programme and by the Governments of Norway, Sweden and the United States of America.



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