

## PORT STATE MEASURES

PREPARED BY: IOTC SECRETARIAT, 15 JANUARY 2015

**REVIEW AREA:** *Compliance and enforcement*

**GENERAL CRITERION:** *Port State Measures*

**DETAILED CRITERIA:**

- 1) Extent to which the RFMO has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3.
- 2) Extent to which these measures are effectively implemented.

**SUPPORTING INFORMATION**

1. *Extent to which the RFMO has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3.*

IOTC has management measures in place that are consistent with the port State requirements given in UNFSA and the Code of Conduct. The two management measures adopted by the Commission, in relation to Port State Measures are: (i) *IOTC Resolution 05/03 Relating to the establishment of an IOTC programme of inspection in port* (adopted in 2005); and (ii) *IOTC Resolution 10/11 On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing* (adopted in 2010 and came into force in March 2011). The latter is an almost exact replication of the FAO Agreement on Port State Measures adopted in 2009, which “*Pursuant to Article 29, the Agreement shall enter into force thirty days after the date of deposit with the Director-General of FAO of the twenty-fifth instrument of ratification, acceptance, approval or accession*”. As of 22 August 2014, only five Members of the IOTC have deposited an instrument of ratification, acceptance, approval or accession, to the Director-General of the FAO. This is in spite of all CPCs being bound by IOTC Resolution 10/11, since March 2011.

2. *Extent to which these measures are effectively implemented.*

If the level of reporting by CPCs on their port State obligations is proportional to the extent to which port State measures are effectively implemented, then it may be concluded that port State measures are currently not well implemented by Indian Ocean States. Most of the CPC port States have not transposed Resolution 10/11 into their domestic legislation, as required by the IOTC Agreement.

To assist CPCs in the IOTC Area to implement port State measures more effectively, the Secretariat has provided training for most of the CPCs with major ports in the IOTC Area. Two types of PSM training are being delivered by the Secretariat: national training for CPC port States on the procedure to implement PSM (2013/2014/2015) and regional training on interagency coordination and regional cooperation (2015/2016).

To assist CPCs in the IOTC Area to transpose resolution 10/11 into their national legislation, a template PSM regulation is being developed within the activity of the ABNJ Project (FAO/GEF).

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***Programme of inspection in port***

In 2002, Commission adopted Resolution 02/01 *Relating to the establishment an IOTC programme of inspection in port*. This was superseded in 2006 by Resolution 05/03 *Relating to the establishment of an IOTC programme of inspection in port* ([Appendix I](#)). In 2010 the Commission adopted Resolution 10/11 *On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing* (which came into force in March 2011) ([Appendix II](#)).

These enable:

- inspections of documents, fishing gear and catch on board fishing vessels.
- adoption of regulations to prohibit landings and transshipments of illegally caught fish.

Both of these resolutions conform with UNSFA Article 23 ([Appendix III](#)) and Code of Conduct for Responsible Fisheries Article 8.3 ([Appendix IV](#)).

***Implementation: information received in accordance with the port inspection programme.***

Information on the status of reporting relating to IOTC Resolution 05/03 and Resolution 10/11 for 2013 is given in [Table 1](#).

The States with ports likely receiving the greatest amounts of tuna and tuna-like species from the Indian Ocean, and therefore arguably are of most interest to the Commission in terms of the existence of port State programmes are Mauritius, South Africa, Seychelles, Sri Lanka, Madagascar, Kenya, Indonesia and Thailand.

***Some members are involved in an initiative to strengthen port State control measures***

To strengthen the implementation of the PSM, the members are involved in the development of an information system /web-based application accessible through the IOTC web site, to support the implementation of IOTC resolutions on Port State Measures (Resolution 10/11 which call for cooperation between the Port State, the Flag State and the Coastal State, Resolution 05/03 and Resolution 12/05). The first phase of the project delivered the full specifications of the application. Its development will be undertaken in 2014/2016 and it is expected the application will operational in 2015/2016.

**Table 1.** The level of implementation of IOTC Resolution 05/03 and Resolution 10/11, for 2013.

CPCs	Res. 05/03	Res. 10/11					
	Port inspection programme	List of designated ports	Designated competent Authority	Prior notification periods	Inspection report	At least 5% inspection of LAN or TRX	Denial of entry in port
Australia	N/A	C	C	C	N/A	N/A	N/A
Belize	N/A	N/A	N/A	N/A	N/A	N/A	N/A
China	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Comoros	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Eritrea	NC	NC	NC	NC	NC	NC	NC
European Union	C	C	C	C	NC	NC	C
France	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Guinea	N/A	N/A	N/A	N/A	N/A	N/A	N/A
India	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Indonesia	NC	C	C	C	NC	NC	NC
Iran, Islamic Republic of	C	C	C	C	C	C	C
Japan	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Kenya	C	C	C	C	C	C	C
Korea, Republic of	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Madagascar	C	C	C	C	C	C	C
Malaysia	NC	C	C	C	NC	NC	NC
Maldives	N/A	C	C	C	N/A	N/A	N/A
Mauritius	NC	C	C	C	C	NC	C
Mozambique	C	C	C	C	C	C	C
Oman, Sultanate of	C	NC	NC	NC	NC	NC	NC
Pakistan	NC	NC	NC	NC	NC	NC	NC
Philippines	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Senegal	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Seychelles	NC	C	C	C	PC	NC	NC
Sierra Leone	N/A	N/A	N/A	N/A	N/A	N/A	N/A
South Africa	NC	C	PC	PC	NC	NC	NC
Sri Lanka	PC	C	C	C	C	C	C
Sudan	NC	NC	NC	NC	NC	NC	NC
Tanzania	C	C	C	C	C	C	C
Thailand	C	NC	NC	NC	NC	NC	NC
United Kingdom	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Vanuatu	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Yemen	NC	NC	NC	NC	NC	NC	NC

**NOTE:** Not assessed = Somalia became a Contracting Party in 2014 and Djibouti become a Cooperating Non-Contracting Party in 2014.

Key	
C	Compliant
N/A	Not Applicable (No active vessels)
PC	Partially Compliant
NC	Non-Compliant

**APPENDIX I****RESOLUTION 05/03****RELATING TO THE ESTABLISHMENT OF AN IOTC PROGRAMME OF INSPECTION IN PORT****The Indian Ocean Tuna Commission (IOTC),**

TAKING NOTE of the results of the Intersessional Meeting on an Integrated Control and Inspection Scheme, held in Yaizu, Japan, from 27 to 29 March 2001.

NOTING that there is a general consensus of the Contracting Parties on the fact that the inspection in port is a central element of a control and inspection programme, and that it can be, in particular, an effective tool to fight against IUU fishing.

TAKING INTO ACCOUNT that Contracting Parties have agreed that the implementation of an integrated control and inspection scheme should follow a phased approach.

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

1. All measures provided for under this resolution shall be taken in accordance with international law.
2. Measures taken by a Port State in accordance with this Agreement shall take full account of the right and the duty of a Port State to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures.
3. Each Contracting Party and Cooperating Non-contracting Parties (hereinafter referred to as CPC's) may, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals. Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
4. Each CPC shall, in accordance with the Resolution 01/03 establishing a Scheme to promote compliance by Non-Contracting Party vessels with resolutions established by the IOTC, adopt regulations in accordance with international law to prohibit landings and transshipments by non-Contracting Party vessels where it has been established that the catch of the species covered by the Agreement establishing the IOTC has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.
5. In the event that a Port State considers that there has been evidence of a violation by a Contracting Party or a Non-Contracting Party vessel of a conservation and management measure adopted by the Commission, the Port State shall draw this to the attention of the Flag State concerned and, as appropriate, the Commission. The Port State shall provide the Flag State and the Commission with full documentation of the matter, including any record of inspection. In such cases, the Flag State shall transmit to the Commission details of actions it has taken in respect of the matter.
6. Nothing in this recommendation affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.
7. While recognizing that inspection in port should be carried out in a non-discriminatory basis, in a first place, priority should be given to inspection of vessels from Non-Contracting Parties.
8. Each CPC shall submit electronically to the Secretary by 1 July of each year, the list of foreign fishing vessels which have landed in their ports tuna and tuna like species caught in the IOTC area in the preceding year. This information shall detail the catch composition by weight and species landed.
9. IOTC Resolution 02/01 *Relating to the establishment an IOTC programme of inspection in port* is superseded by this Resolution.

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**APPENDIX II****RESOLUTION 10/11****ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING****The Indian Ocean Tuna Commission (IOTC),**

DEEPLY CONCERNED about the continuation of illegal, unreported and unregulated fishing in the IOTC Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States, and the increasing need for food security in the region;

CONSCIOUS of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources;

RECOGNISING that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing;

RECOGNISING that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing;

AWARE of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures;

RECOGNISING the need for assistance to developing countries, in particular Small Island Developing States to adopt and implement port State measures;

TAKING NOTE OF the binding Agreement on port State measures to combat IUU fishing which was adopted and opened for signature within the framework of FAO in November 2009, and desiring to implement this Agreement in an efficient manner in the IOTC Area;

BEARING IN MIND that, in the exercise of their sovereignty over ports located in their territory, IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) may adopt more stringent measures, in accordance with international law;

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the Convention;

RECALLING the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Resolutions by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

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**PART 1**  
**GENERAL PROVISIONS**

1. *Use of terms*

For the purposes of this Resolution:

- (a) “fish” means all species of highly migratory fish stocks covered by the IOTC Agreement;
- (b) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
- (c) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- (d) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 1 of the Resolution 09/03 [\[superseded by Resolution 11/03\]](#);
- (e) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying; and
- (f) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

2. *Objective*

The objective of this Resolution is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures to control the harvest of fish caught in the IOTC Area, and thereby to ensure the long-term conservation and sustainable use of these resources and marine ecosystems.

3. *Application*

3.1 Each CPC shall, in its capacity as a port State, apply this Resolution in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:

- (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing; and
- (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.

3.2 This Resolution shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

4. *Integration and coordination at the national level*

Each CPC shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
- (c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Conservation and Management Resolution.

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

5. *Designation of ports*

5.1 Each CPC shall designate and publicise the ports to which vessels may request entry pursuant to this Resolution. Each CPC shall provide a list of its designated ports to IOTC Secretariat before 31 December 2010, which shall give it due publicity on the IOTC website.

5.2 Each CPC shall, to the greatest extent possible, ensure that every port designated and publicised in accordance with point 5.1 has sufficient capacity to conduct inspections pursuant to this Resolution.

6. *Advance request for port entry*

6.1 Each CPC shall require the information requested in **Annex I** to be provided before granting entry to a vessel to its port.

6.2 Each CPC shall require the information referred to in point 6.1 to be provided at least 24 hours before entering into port or immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours. For the latter, the port State must have enough time to examine the above mentioned information.

7. *Port entry, authorisation or denial*

7.1 After receiving the relevant information required pursuant to section 6, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each CPC shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.

7.2 In the case of authorisation of entry, the master of the vessel or the vessel's representative shall be required to present the authorisation for entry to the competent authorities of the CPC upon the vessel's arrival at port.

7.3 In the case of denial of entry, each CPC shall communicate its decision taken pursuant to point 7.1, to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States and IOTC Secretariat. The IOTC Secretariat may, if deemed appropriate to combat IUU fishing at global level, communicate this decision to secretariats of other RFMO's.

7.4 Without prejudice to point 7.1, when a CPC has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organisation in accordance with the rules and procedures of such organisation and in conformity with international law, the CPC shall deny that vessel entry into its ports.

7.5 Notwithstanding points 7.3 and 7.4, a CPC may allow entry into its ports of a vessel referred to in those points exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

7.6 Where a vessel referred to in points 7.4 or 7.5 is in port for any reason, a CPC shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refueling and resupplying, maintenance and drydocking. Points 9.2 and 9.3 of section 9 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

8. *Force majeure or distress*

Nothing in this Resolution affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

### PART 3 USE OF PORTS

9. *Use of ports*

9.1 Where a vessel has entered one of its ports, a CPC shall deny, pursuant to its laws and regulations and consistent with international law, including this Conservation and Management Resolution, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and drydocking, if:

- a) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State;
- b) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- c) the CPC receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation; or
- e) the CPC has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in point 7.4, unless the vessel can establish:
  - i. that it was acting in a manner consistent with relevant IOTC Resolutions; or
  - ii. in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in point 4 of paragraph 7.

9.2 Notwithstanding point 9.1, a CPC shall not deny a vessel referred to in that point the use of port services:

- a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven; or
- b) where appropriate, for the scrapping of the vessel.

9.3 Where a CPC has denied the use of its port in accordance with this paragraph, it shall promptly notify the flag State and, as appropriate, relevant coastal States, IOTC or other regional fisheries management organisations and other relevant international organisations of its decision.

9.4 A CPC shall withdraw its denial of the use of its port pursuant to point 9.1 in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.

9.5 Where a CPC has withdrawn its denial pursuant to point 9.4, it shall promptly notify those to whom a notification was issued pursuant to point 9.3.

#### PART 4 INSPECTIONS AND FOLLOW-UP ACTIONS

##### 10. *Levels and priorities for inspection*

- 10.1 Each CPC shall carry out inspections of at least 5% of landings or transshipments in its ports during each reporting year.
- 10.2 Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities by species of fish remaining on board.
- 10.3 National inspectors shall make all possible efforts to avoid unduly delaying a vessel and ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
- 10.4 The port CPC may invite inspectors of other CPC to accompany their own inspectors and observe the inspection of landings or transshipment operations of fishery resources caught by fishing vessels flying the flag of another CPC.

##### 11. *Conduct of inspections*

- 11.1 Each CPC shall ensure that its inspectors carry out the functions set forth in **Annex II** as a minimum standard.
- 11.2 Each CPC shall, in carrying out inspections in its ports:
  - a) ensure that inspections are carried out by properly qualified inspectors authorised for that purpose, having regard in particular to section 14;
  - b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
  - c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant Conservation and Management Resolutions;
  - d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;



- e) in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;
- f) make all possible efforts to avoid unduly delaying the vessel to minimise interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

12. *Results of inspections*

Each CPC shall, as a minimum standard, include the information set out in **Annex III** in the written report of the results of each inspection.

13. *Transmittal of inspection results*

13.1 The port State CPC shall, within three full working days of the completion of the inspection, transmit by electronic means a copy of the inspection report and, upon request, an original or a certified copy thereof, to the master of the inspected vessel, to the flag State, to the IOTC Secretariat and, as appropriate, to:

- a) the flag State of any vessel that transhipped catch to the inspected vessel;
- b) the relevant CPCs and States, including those States for which there is evidence through inspection that the vessel has engaged in IUU fishing, or fishing related activities in support of such fishing, within waters under their national jurisdiction; and
- c) the State of which the vessel's master is a national.

13.2 The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations, and post the inspection report on the IOTC website.

14. *Training of inspectors*

Each CPC shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in **Annex V**. CPC shall seek to cooperate in this regard.

15. *Port State actions following inspection*

15.1 Where, following an inspection, there are clear grounds for believing that a vessel has engaged IUU fishing or fishing related activities in support of such fishing, the inspecting CPC shall:

- a) promptly notify the flag State, the IOTC Secretariat and, as appropriate, relevant coastal States, and other regional fisheries management organisations, and the State of which the vessel's master is a national of its findings; and
- b) deny the vessel the use of its port for landing, transhipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Conservation and Management Resolution.

15.2 Notwithstanding point 15.1, a CPC shall not deny a vessel referred to in that point the use of port services essential for the safety or health of the crew or the safety of the vessel.

15.3 Nothing in this Resolution prevents a CPC from taking measures that are in conformity with international law in addition to those specified in points 15.1 and 15.2, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

16. *Information on recourse in the port State*

16.1 A CPC shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that CPC pursuant to

sections 7, 9, 11 or 15, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the CPC.

- 16.2 The CPC shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organisations have been informed of the prior decision pursuant to sections 7, 9, 11 or 15, the CPC shall inform them of any change in its decision.

#### **PART 5 ROLE OF FLAG STATES**

##### 17. *Role of CPCs flag States*

- 17.1 Each CPCs shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Resolution.
- 17.2 When a CPC has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Resolution.
- 17.3 Each CPC shall encourage vessels entitled to fly its flag to land, tranship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Resolution. CPCs are encouraged to develop fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Resolution.
- 17.4 Where, following port State inspection, a flag State CPC receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.
- 17.5 Each CPC shall, in its capacity as a flag State, report to other CPCs, relevant port States and, as appropriate, other relevant States, regional fisheries management organisations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Resolution, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.
- 17.6 Each CPC shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in point 3.1.

#### **PART 6 REQUIREMENTS OF DEVELOPING STATES**

##### 18. *Requirements of developing States*

- 18.1 CPCs shall give full recognition to the special requirements of CPCs developing States in relation to the implementation of this Resolution. To this end, IOTC should provide assistance to CPCs developing States in order to, *inter alia*:
- a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
  - b) facilitate their participation in any international organisations that promote the effective development and implementation of port State measures; and
  - c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.
- 18.2 IOTC shall give due regard to the special requirements of developing CPCs port States, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Resolution is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, CPCs shall cooperate to facilitate the implementation by the relevant CPCs developing States of specific obligations under this Resolution.
- 18.3 IOTC shall assess the special requirements of CPCs developing States concerning the implementation of this Resolution.
- 18.4 IOTC CPCs shall cooperate to establish appropriate funding mechanisms to assist CPCs developing States in the implementation of this Resolution. These mechanisms shall, *inter alia*, be directed specifically towards:

- a) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
- b) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
- c) listing CPCs developing States with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Resolution.

**PART 7**  
**DUTIES OF THE IOTC SECRETARIAT**

19. *Duties of the IOTC Secretariat*

19.1 The IOTC Secretariat shall without delay post on the IOTC website:

- a) the list of designated ports;
- b) the prior notification periods established by each CPC;
- c) the information about the designated competent authority in each port State CPC;
- d) the blank copy of the IOTC Port inspection report form.

19.2 The IOTC Secretariat shall without delay post on the secure part of the IOTC website copies of all Port inspection reports transmitted by port State CPCs.

19.3 All forms related to a specific landing or transshipment shall be posted together.

19.4 The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations.

20. This Resolution enters into force the 01 March 2011 and shall be applied to CPCs' ports within the IOTC area of competence. The CPCs situated outside the IOTC area of competence shall endeavour to apply this Resolution.

**ANNEX I**  
**Information to be provided in advance by vessels requesting port entry**

<b>1. Intended port of call</b>															
<b>2. Port State</b>															
<b>3. Estimated date and time of arrival</b>															
<b>4. Purpose(s)</b>															
<b>5. Port and date of last port call</b>															
<b>6. Name of the vessel</b>															
<b>7. Flag State</b>															
<b>8. Type of vessel</b>															
<b>9. International Radio Call Sign</b>															
<b>10. Vessel contact information</b>															
<b>11. Vessel owner(s)</b>															
<b>12. Certificate of registry ID</b>															
<b>13. IMO ship ID, if available</b>															
<b>14. External ID, if available</b>															
<b>15. IOTC ID</b>															
<b>16. VMS</b>		No		Yes: National		Yes: RFMO(s)		Type:							
<b>17. Vessel dimensions</b>		Length		Beam		Draft									
<b>18. Vessel master name and nationality</b>															
<b>19. Relevant fishing authorisation(s)</b>															
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		<i>Fishing area(s)</i>		<i>Species</i>		<i>Gear</i>					
<b>20. Relevant transhipment authorisation(s)</b>															
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>											
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>											
<b>21. Transhipment information concerning donor vessels</b>															
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID</i>	<i>Species</i>	<i>Product</i>	<i>Catch area</i>	<i>Quantity</i>							
<b>22. Total catch onboard</b>							<b>23. Catch to be offloaded</b>								
<i>Species</i>		<i>Product form</i>		<i>Catch area</i>		<i>Quantity</i>		<i>Quantity</i>							

**ANNEX II**  
**Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organisation (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorisations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with **Annex I**;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or IOTC Secretariat or other relevant regional fisheries management organisations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorisations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorised for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorisations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.

**ANNEX III**  
**IOTC Port inspection report form**

1. Inspection report no			2. Port State			
3. Inspecting authority						
4. Name of principal inspector				ID		
5. Port of inspection						
6. Commencement of inspection		YYYY	MM	DD	HH	
7. Completion of inspection		YYYY	MM	DD	HH	
8. Advanced notification received			Yes		No	
9. Purpose(s)	LAN	TRX	PRO	OTH (specify)		
10. Port and State and date of last port call			YYYY	MM	DD	
11. Vessel name						
12. Flag State						
13. Type of vessel						
14. International Radio Call Sign						
15. Certificate of registry ID						
16. IMO ship ID, if available						
17. External ID, if available						
18. Port of registry						
19. Vessel owner(s)						
20. Vessel beneficial owner(s), if known and different from vessel owner						
21. Vessel operator(s), if different from vessel owner						
22. Vessel master name and nationality						
23. Fishing master name and nationality						
24. Vessel agent						
25. VMS	No	Yes: National		Yes: RFMOs	Type:	
26. Status in IOTC, including any IUU vessel listing						
Vessel identifier	RFMO	Flag State status	Vessel on authorised vessel list		Vessel on IUU vessel list	
27. Relevant fishing authorisation(s)						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
28. Relevant transhipment authorisation(s)						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
29. Transhipment information concerning donor vessels						
<i>Name</i>	<i>Flag State</i>	<i>ID no</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
30. Evaluation of offloaded catch (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
31. Catch retained onboard (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
32. Examination of logbook(s) and other documentation				<i>Yes</i>	<i>No</i>	<i>Comments</i>
33. Compliance with applicable catch documentation scheme(s)				<i>Yes</i>	<i>No</i>	<i>Comments</i>

34. Compliance with applicable trade information scheme(s)	<i>Yes</i>	<i>No</i>	<i>Comments</i>
35. Type of gear used			
36. Gear examined in accordance with paragraph e) of Annex II	<i>Yes</i>	<i>No</i>	<i>Comments</i>
37. Findings by inspector(s)			
38. Apparent infringement(s) noted including reference to relevant legal instrument(s)			
39. Comments by the master			
40. Action taken			
41. Master's signature			
42. Inspector's signature			

**ANNEX IV**  
**Information systems on port State measures**

In implementing this Conservation and Management Resolution, each CPC shall:

- a) seek to establish computerised communication;
- b) establish, to the extent possible, websites to publicise the list of ports designated in accordance with point 5.1 and the actions taken in accordance with the relevant provisions of this Conservation and Management Resolution;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilise, to the extent possible, the international coding system below in **Annexes I** and **III** and translate any other coding system into the international system.

countries/territories:	ISO-3166 3-alpha Country Code
species:	ASFIS 3-alpha code (known as FAO 3-alpha code)
vessel types:	ISSCFV code (known as FAO alpha code)
gear types:	ISSCFG code (known as FAO alpha code)

**ANNEX V**  
**Guidelines for the training of inspectors**

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and Conservation and Management Resolutions of the IOTC, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilising conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.



## APPENDIX III

### UNSFPA REQUIREMENTS OF DEVELOPING STATES

#### Article 23

##### Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.
2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.
3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.
4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

## APPENDIX IV

### FAO Code of Conduct for Responsible Fisheries

#### Article 8.3

##### Port State duties

###### 8.3.1

Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

###### 8.3.2

Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.