

LETTER OF UNDERSTANDING (LoU) BETWEEN THE INDIAN OCEAN MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL (IOMOU) AND THE INDIAN OCEAN TUNA COMMISSION (IOTC)

IOTC Secretariat: 27 August 2020

PURPOSE

To provide the Compliance Committee with an opportunity to consider the proposed Letter of Understanding (LoU) between the Indian Ocean Tuna Commission (IOTC) and the Memorandum of Understanding on Port State Control (IOMOU) for the Indian Ocean region.

BACKGROUND

The IOTC Agreement, Article XV, paragraphs 1 and 2, on the *Cooperation with other organisations and institutions* states:

1. *The Commission shall cooperate and make appropriate arrangements therefore with other intergovernmental organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Commission in particular with any intergovernmental organization or institution dealing with tuna in the Area. The Commission may enter into agreements with such organizations and institutions. Such agreements shall seek to promote complementarity and, subject to paragraph 2, to avoid duplication in and conflict with the activities of the Commission and such organizations.*
2. *Nothing in this Agreement shall prejudice the rights and responsibilities of other intergovernmental organizations or institutions dealing with tuna or a species of tuna in the Area or the validity of any measures adopted by such organization or institution.*

Additionally, paragraph 4 of IOTC Resolution 16/11 *On port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing*, which addresses *Integration and coordination at the national level*, states:

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.*

To date, there are twenty Indian Ocean State authorities (including 19 IOTC Members) that are parties to the Memorandum of Understanding on Port State Control for the Indian Ocean Region (IOMOU). These authorities work to increase maritime safety and security and the protection of the marine environment, and improve living and working conditions on board ships.

The Third Session of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters (JWG3) was held in November 2015. Amongst various issues of mutual interest to the FAO, IMO, and their Members, the meeting considered ways to enhance cooperation in undertaking vessel inspections under regional fisheries management organizations (RFMOs) and port State control (PSC) regimes that implement requirements under IMO and ILO mandatory instruments.

The Fourth Session of the JWG, which included the ILO as a formal partner, was held in October 2019 and recommended that:

- FAO, ILO and IMO promote and support the development of ways to increase coordination and information sharing for inspection and control procedures at national level, including through technical assistance to

developing countries, thereby increasing efficiency and effectively supporting the implementation of the respective instruments;

- various regional PSC regimes consider opportunities to coordinate their activities and to share information about various inspections under FAO/ILO/IMO instruments; and
- FAO and IMO, together with ILO and relevant Organizations and regimes, as appropriate, consider developing guidance to facilitate cooperation, coordination and information-sharing between authorities carrying out inspections in ports of the merchant and fishing sectors, in line with relevant international instruments related to the safety and security of fishing vessels and fishing vessel personnel, the protection of the marine environment and fishing operations.

Furthermore, JWG 4 welcomed the initiative of the IOMOU to explore a collaborative programme with the IOTC, pending consideration by the members of the latter.

THE PROPOSAL

The objective of the proposal is to raise awareness of national inspectors under the different regimes of IOTC and IOMOU to improve the coordination and efficiency of the implementation of port State measures/controls.

The LoU is largely based on text that have been discussed between the Secretariats of the IOTC and the IOMOU, with support from the Secretariats of the ILO and the IMO, and the PEW Trusts. The proposed LoU is provided in Appendix 1.

The Compliance Committee is invited to consider the proposed LoU, in Appendix 1.

RECOMMENDATION/S

That the Compliance Committee:

- 1) **NOTE** paper IOTC–2020–CoC17–12 which provide the Compliance Committee with an opportunity to consider the draft Letter of Understanding (LoU) between the Indian Ocean Tuna Commission (IOTC) and the Memorandum of Understanding on Port State Control for the Indian Ocean Region (IOMOU).
- 2) **CONSIDER** and, as appropriate, amend the LoU in Appendix 1.
- 3) **RECOMMEND** the LoU in Appendix 1, or an amended version of the LoU, to the Commission for its consideration and possible agreement for the Chairperson of the Commission to sign the LoU on behalf of the Commission, and for the LoU to be communicated to the IOMOU accordingly for signature, or as otherwise may be the case.



Indian Ocean Memorandum of Understanding on Port State Control (IOMOU)

Letter of Understanding (LoU)

to support collaborative work between the Indian Ocean Memorandum of Understanding on Port State Control (IOMOU) and the Indian Ocean Tuna Commission (IOTC)

Introduction

The Indian Ocean Tuna Commission (IOTC) is an intergovernmental organization responsible for the management of tuna and tuna-like species in the Indian Ocean. IOTC has 31 Members whose collective objective is to promote cooperation and ensure, through appropriate management, the conservation and optimum utilisation of the 16 stocks covered by the organisation's establishing Agreement and encouraging sustainable development of fisheries based on these stocks. IOTC has made the use of the IMO ship identification numbers mandatory in its area of competency. More information on the IOTC can be found [\[here\]](#).

Following the adoption of the 2009 FAO Port State Measures Agreement, and well before it came into force, the IOTC was one of the first fisheries management organisations to begin systematically addressing its port State responsibilities. In 2010, IOTC adopted its first Port State Measures Resolution, mirroring relevant provisions of the 2009 FAO Agreement and making them binding on its Members. This resolution included the mechanisms and drivers for regional-based actions on the part of flag States, coastal States, port States, market States and the industry i.e. the broad range of stakeholders that need to be engaged for effective implementation and compliance of the measures. Since 2010 the Commission has continued to strengthen its port State measures (the latest resolution was adopted in 2016) and take advantage of new technologies. In 2019 it introduced the e-PSM, an innovative electronic system of reporting Port state information to the Secretariat and communicating information between IOTC Members.

To date, there are twenty Indian Ocean State authorities (including 19 IOTC Members) that are parties to the Memorandum of Understanding on Port State Control for the Indian Ocean Region (IOMOU). These authorities work to increase maritime safety and security and the protection of the marine environment, and improve living and working conditions on board ships. The IOMOU relates to 12 International Instruments, and each Authority is tasked with establishing and maintaining an effective system of Port State Control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the 12 instruments. To do this, each Authority is expected to achieve an annual total of inspections corresponding to at least 10% of individual foreign merchant ships, which enter the ports of its State.

More information on the IOMOU can be found [\[here\]](#).

The Third Session of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters (JWG3) was held in November 2015. Amongst various issues of mutual interest to the FAO, IMO, and their Members, the meeting considered ways to enhance cooperation in undertaking vessel inspections under regional fisheries management organizations (RFMOs) and port State control (PSC) regimes that implement requirements under IMO and ILO mandatory instruments.

Understanding that there is a common area of interest in port inspections between PSC regimes and RFMOs, and that fishing vessels fall under the purview of both, the JWG3 recommended that the FAO, in cooperation with the IMO and ILO, and if appropriate, PSC regimes, and RFMOs, encourage the coordinated implementation of the PSMA, with other types of inspections which might be carried out.

The Fourth Session of the JWG, which included the ILO as a formal partner, was held in October 2019 and recommended that:

- FAO, ILO and IMO promote and support the development of ways to increase coordination and information sharing for inspection and control procedures at national level, including through technical assistance to developing countries, thereby increasing efficiency and effectively supporting the implementation of the respective instruments;
- various regional PSC regimes consider opportunities to coordinate their activities and to share information about various inspections under FAO/ILO/IMO instruments; and
- FAO and IMO, together with ILO and relevant Organizations and regimes, as appropriate, consider developing guidance to facilitate cooperation, coordination and information-sharing between authorities carrying out inspections in ports of the merchant and fishing sectors, in line with relevant international instruments related to the safety and security of fishing vessels and fishing vessel personnel, the protection of the marine environment and fishing operations.

Furthermore, JWG 4 welcomed the initiative of the IOMOU to explore a collaborative programme with the IOTC, pending consideration by the members of the latter.

The PSMA is implemented by Parties at a national level. However, the IOTC, like other RFMOs, has adopted a Conservation and Management Measure (CMM) that is aligned with the PSMA (IOTC Resolution 16/11), requiring compliance by the Members irrespective of whether they are Parties to the PSMA or otherwise, and thus improving the standard of port inspections on fishing and fishing-related vessels at a regional level. However, as port State measures have been developed with a focus on fisheries management, they do not account for maritime safety and security, labour or pollution prevention-related issues, meaning that these factors still need to be inspected.

Nine regional PSC regimes exist that inspect foreign-flagged ships in port against relevant international conventions covering vessel safety, security, operations, working and living conditions, crew training and pollution prevention. The port States authorities take action against ships that are not in compliance with mandatory instruments in force. PSC regimes cover multiple 'relevant instruments' some of which apply, at least partly, to fishing vessels and their crews, and therefore require awareness of fishing vessels and other vessels involved in fishing-related activities when coordinating and regulating inspections, but such vessels are currently excluded from the regimes and some international instrument particularly relevant to PSC activities, i.e. the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, is not yet in force.

This situation presents a risk of inconsistent or incompatible work, potentially causing a cost and resource burden to the port State and the industry. Therefore, a holistic and effective approach to implementation of the individual PSC/PSM inspections outlined in the relevant instruments is necessary, putting emphasis on the cooperation and coordination, at national and regional level, between relevant administrations, including but not limited to maritime, labour and fisheries administrations, RFMOs and PSC regimes.

Scope of this Letter of Understanding

To raise awareness of national inspectors under the different regimes of IOTC and IOMOU to improve the coordination and efficiency of the implementation of port State measures.

The Arrangement between IOMOU and IOTC

The Secretariats of the IOTC and the IOMOU will cooperate with each other, and with the support from the Secretariats of the FAO, ILO, and IMO, as may be found necessary by members of the IOTC and IOMOU, to:

- raise awareness of inspectors under the different inspection regimes of each other's work to improve the coordination and efficiency of the implementation of the respective inspection instruments;

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- exchange views on IOMOU procedures and IOTC CMM requirements to identify commonalities and/or potential obstacles in their consistent application;
 - determine shared information opportunities and support information exchange between the IOTC and IOMOU inspection regimes;
 - support capacity development initiatives relevant to the IOTC and IOMOU inspection regimes;
 - exchange views on the legal framework applicable to fishing vessels, as defined in various instruments and agreements, with the aim of identifying elements for coordination of inspections in the overall context of avoiding unnecessary hindrance to vessels and strengthening efficiency in the inspection processes, while taking into account the different objectives of inspection regimes; and
 - support the entry into force and implementation of relevant FAO, ILO and IMO international instruments.

This arrangement comes into effect from the date notified below and will continue for a period of three years when an assessment will be made by the Commission and the IOMOU on its continuation.

Effective from: _____

Signed and duly dated:

Indian Ocean Tuna Commission

Memorandum of Understanding on Port
State Control for the Indian Ocean Region

Date: _____

Date: _____