



Food and Agriculture  
Organization of the  
United Nations



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# Port State Measures Guidelines on best practices

FOR INTERAGENCY COOPERATION  
AT NATIONAL LEVEL AND REGIONAL  
COOPERATION

2020

The background of the cover features a stylized, isometric illustration of a port scene. In the foreground, a red and white tugboat is docked at a pier. To its right, there are several red and white cargo containers, some stacked. A red forklift is visible near the containers. In the background, another ship is partially visible. The entire scene is set against a blue background with a white grid pattern.



# Port State Measures

## Guidelines on best practices

FOR INTERAGENCY COOPERATION  
AT NATIONAL LEVEL AND REGIONAL  
COOPERATION

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2020

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

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# Table of Contents

<b>List of figures</b>	<b>6</b>
<b>List of tables</b>	<b>8</b>
<b>Abbreviations and acronyms</b>	<b>10</b>
<b>Terms</b>	<b>11</b>
<b>1-Introduction</b>	<b>12</b>
1.1. Explanation of the objectives and content of the Guidelines	13
1.2. Minimum standards for cooperation and best practices	14
1.3. Brief overview of key concepts of the IOTC PSMR	16
<b>2-Interagency integration and coordination at the national level</b>	<b>21</b>
2.1. The broader system of port controls	24
2.2. Integrating port State measures with other measures to combat IUU fishing	31
2.3. Exchange of information among relevant national agencies and coordinate their activities in implementing IOTC PSMR	32
2.4. Interagency Memorandum of Understanding (MoU)	38
<b>3-Best practice guide to national interagency cooperation</b>	<b>44</b>
3.1. Analysis of the AREP - Port entry, authorization and denial	47
3.2. Standard Operating Procedures between Fisheries Authorities and other relevant agencies	55
3.3. On board inspection in port and follow up actions	60
3.4. Port State actions following an inspection	62

<b>4-Best practice guide to cooperation at regional level</b>	<b>64</b>
4.1. Analysis of the AREP - Port entry, authorization and denial	68
4.2. Denial of use of port	76
4.3. Port State actions following an inspection	78
4.4. Flag State actions following an inspection	80
<b>5-Conclusion</b>	<b>82</b>
<b>Annex 1</b>	<b>83</b>
<b>Annex 2</b>	<b>91</b>
<b>Annex 3</b>	<b>102</b>

# List of figures

<b>Figure 1:</b> Key cooperation requirements of the IOTC PSMR.	13
<b>Figure 2:</b> Port State Measures and minimum standards for cooperation - best practices.	15
<b>Figure 3:</b> Tuna purse seiner involved in 3 offloading operations in port Victoria, Seychelles - landing to a cannery, transhipment to a carrier vessel and to a container.	17
<b>Figure 4:</b> Application of PSM - Examples of purposes of port calls.	19
<b>Figure 5:</b> Tuna landing operation in the port of Dikovita, Sri Lanka.	20
<b>Figure 6:</b> Tuna landing operation to a cannery in port Victoria, Seychelles	24
<b>Figure 7:</b> Interagency cooperation - national agencies with which cooperation should be established to implement port State measures.	25
<b>Figure 8:</b> The bay of Antsiranana, Madagascar, where the port of Diego Suarez is located.	27
<b>Figure 9:</b> Main sequential phases of a vessel activity in port.	32
<b>Figure 10:</b> Vessel activity in port & the PSM process.	33
<b>Figure 11:</b> Landing of tuna from a carrier vessel to a cannery in the port of Antsiranana, Madagascar.	39
<b>Figure 12:</b> Direct offloading of tuna from a purse seiner into a container in port Victoria, Seychelles.	43

<b>Figure 13:</b> The six steps requiring cooperation and information exchange among national agencies.	<b>45</b>
<b>Figure 14:</b> AREP / risk analysis and cooperation required from relevant authorities.	<b>48</b>
<b>Figure 15:</b> Port State decisions to allow or deny port entry	<b>49</b>
<b>Figure 16:</b> The port of Zanzibar, Tanzania.	<b>51</b>
<b>Figure 17:</b> Offloading of a purse seine net in port Victoria, Seychelles.	<b>54</b>
<b>Figure 18:</b> The three main possible port State actions following the assessment of the AREP.	<b>55</b>
<b>Figure 19:</b> Purse seiner and carrier vessel in transshipment operation in Port Victoria, Seychelles.	<b>61</b>
<b>Figure 20:</b> Cooperation and communication requirements at regional levels.	<b>66</b>
<b>Figure 21:</b> Regional communication requirements when a vessel is denied entry into port (IOTC PSMR, paragraph 7.3)	<b>76</b>
<b>Figure 22:</b> Regional communication requirements when a vessel is denied use of port based on specified criteria, no inspection necessary.	<b>78</b>
<b>Figure 23:</b> Regional communication requirements when there are clear grounds to believe that a vessel has engaged in IUU fishing or related activity and port use is denied.	<b>79</b>
<b>Figure 24:</b> Flag State communication requirements following a flag State investigation and action pursuant to a port State inspection report	<b>81</b>

# List of tables

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**Table 1:** Essential information exchanges during the PSM inspection process to coordinate permission or denial of use of port services. \_\_\_\_\_ **35**

---

**Table 2:** Name and contacts of regional and international organisations. \_ **67**

---

**Table 3:** Internet addresses & contacts of record of authorised vessels of tuna RFMOs. \_\_\_\_\_ **72**

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**Table 4:** Internet addresses of IUU vessel lists of some RFMOs \_\_\_\_\_ **73**

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The photographs in the manual belong to the Indian Ocean Tuna Commission except where indicated otherwise.

# Abbreviations and acronyms

<b>AREP</b>	Advance Request to Enter Port
<b>ATF</b>	Authorisation to Fish (Flag State)
<b>CPC</b>	Contracting Parties and Cooperating Non-Contracting Parties
<b>FAO</b>	Food and Agriculture Organization of the United Nations
<b>IMO</b>	International Maritime Organization
<b>INTERPOL</b>	International Criminal Police Organization
<b>IOTC</b>	Indian Ocean Tuna Commission
<b>IPOA-IUU</b>	FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
<b>IUU</b>	Illegal, unreported and unregulated (used in relation to fishing and related activities)
<b>MCS</b>	Monitoring Control and Surveillance
<b>MoU</b>	Memorandum of Understanding
<b>PSM</b>	Port State Measures
<b>PSMR</b>	Port State Measures Resolution (Resolution 16/11 on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing)
<b>RFMO</b>	Regional Fisheries Management Organisation
<b>SOP</b>	Standard Operating Procedures
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VMS</b>	Vessel Monitoring System



# Terms

<b>Fish</b>	All species of highly migratory fish stocks covered by the IOTC Agreement.
<b>Fishing</b>	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.
<b>Fishing related activities, or "related activities"</b>	<p>Any operation in support of, or in preparation for, fishing, including:</p> <ul style="list-style-type: none"> <li>→ landing;</li> <li>→ packaging;</li> <li>→ processing;</li> <li>→ transshipping; or</li> <li>→ transporting</li> </ul> <p>fish that have not been previously landed at a port, and provisioning personnel, fuel, gear and other supplies at sea.</p>
<b>IUU fishing activities</b>	Illegal, unreported and unregulated fishing activities refer to the activities set out in paragraph 4 of IOTC Resolution 18/03 (which include fishing and fishing related activities).
<b>Port</b>	Includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying.
<b>Use of Port</b>	1 Landing, transshipping, packaging and processing of fish that have not been previously landed and other port services including, among others, refuelling and resupplying, maintenance and dry-docking.
<b>Vessel</b>	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.

# 1

## Introduction

### 1.1.

Explanation of the objectives and  
content of the Guidelines

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### 1.2.

Minimum standards for cooperation  
and best practices

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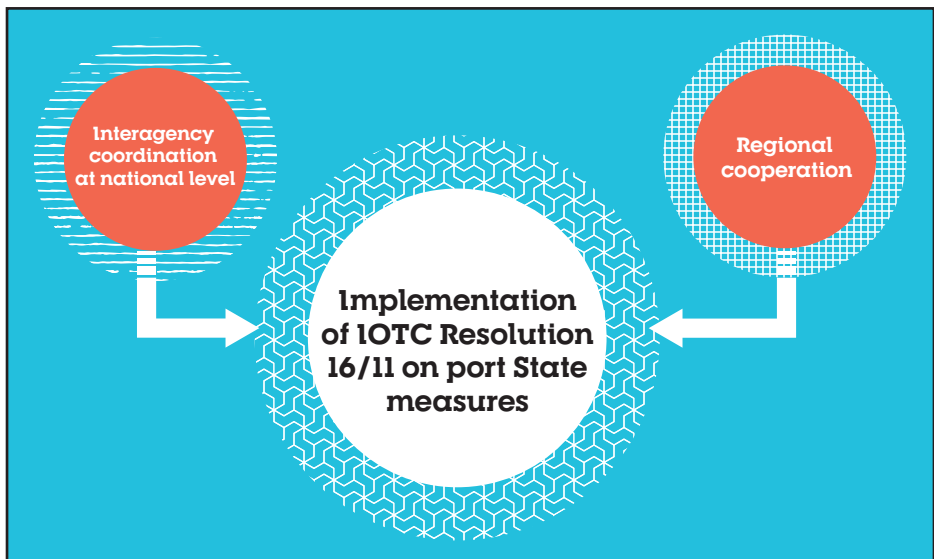
### 1.3.

Brief overview of key concepts  
of the IOTC PSMR

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## 1.1. *Explanation of the objectives and content of the Guidelines*

One of the constraints to the effective implementation of port State measures (PSM) to combat illegal, unreported and unregulated (IUU) fishing - and related activities in support of such fishing - is the lack of coordination and cooperation among the various responsible national agencies that are either directly or indirectly involved with the administration and functioning of a country's port activities and national security.



*Figure 1: Key cooperation requirements of the IOTC PSMR.*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

At times, interagency relations can be strained and frustrating, and responsible national authorities may not communicate vital information to national agencies or regional contacts. Such situations, which often arise from a lack of understanding or planning, can defeat any hope of coming to grips with IUU fishing.

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The objective of this document is to prevent such situations from occurring by providing guidelines of best practices for the implementation of IOTC Resolution 16/11 on port State measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IOTC PSMR) in terms of regional cooperation and national interagency coordination.

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The Guidelines are almost identical to the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (FAO Agreement) and the best practices of countries to implement each requirement - including IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) and other countries in the international community.

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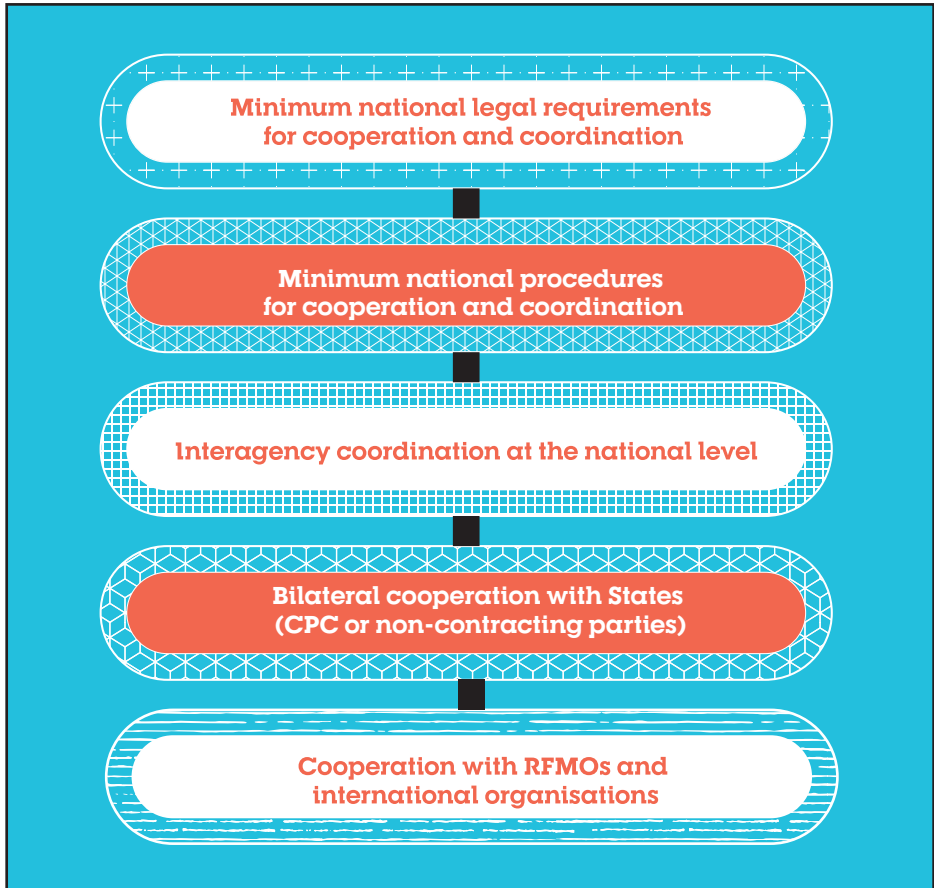
The Guidelines are intended to provide practical information and guidance to port State competent authorities (or administration) that can be adapted to reflect national practices, policies and other relevant international arrangements in force governing the management of highly migratory species, the control of fishing and fishing related activities and the implementation of port State measures.

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### ***1.2. Minimum standards for cooperation and best practices***

**T**he success of the implementation of both the IOTC PSMR and FAO Agreement depends on the *implementation and harmonization* of the *minimum standards* for port State measures that they require. Implementation of harmonized minimum standards, in turn, depends on best practices for:

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*Figure 2: Port State Measures and minimum standards for cooperation - best practices.*

The importance of each of these minimum standards is described below, followed by a step-by-step

description of “best practices” for national interagency coordination and regional cooperation.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### 1.3. Brief overview of key concepts of the IOTC PSMR

When and where should port State measures be applied, as a minimum standard? Key concepts in the IOTC PSMR are clear in this regard, and address vessels, fish, fishing, fishing related activities, IUU fishing, port and use of port, described below. Countries are free to apply more stringent requirements.

#### **Vessels** refer to:

Foreign vessels (those not entitled to fly your country's flag)<sup>1</sup>.

→ Vessels seeking entry into port, or are in port; and

→ Vessels that are used for, equipped to be used for, or intended to be used for, fishing or fishing related activities - i.e. fishing, transport, supply, other vessels.

#### **Fish** refers to:

→ all species of highly migratory fish stocks covered by the IOTC Agreement.



#### **Fishing** refers to:

→ 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.

#### **IUU fishing** refers to:

→ the activities in paragraph 4 of IOTC Resolution 18/03.

#### **Port** refers to:

→ offshore terminals and other installations for landing, transhipping, packaging, processing, refuelling or resupplying.

<sup>1</sup>. There are two exceptions: (a) artisanal subsistence vessels from a neighbouring country where countries cooperate to ensure that they don't engage in IUU fishing or fishing related activities; 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 IUU fishing related activities.



*Figure 3: Tuna purse seiner involved in 3 offloading operations in port Victoria, Seychelles - landing to a cannery, transhipment to a carrier vessel and to a container.*

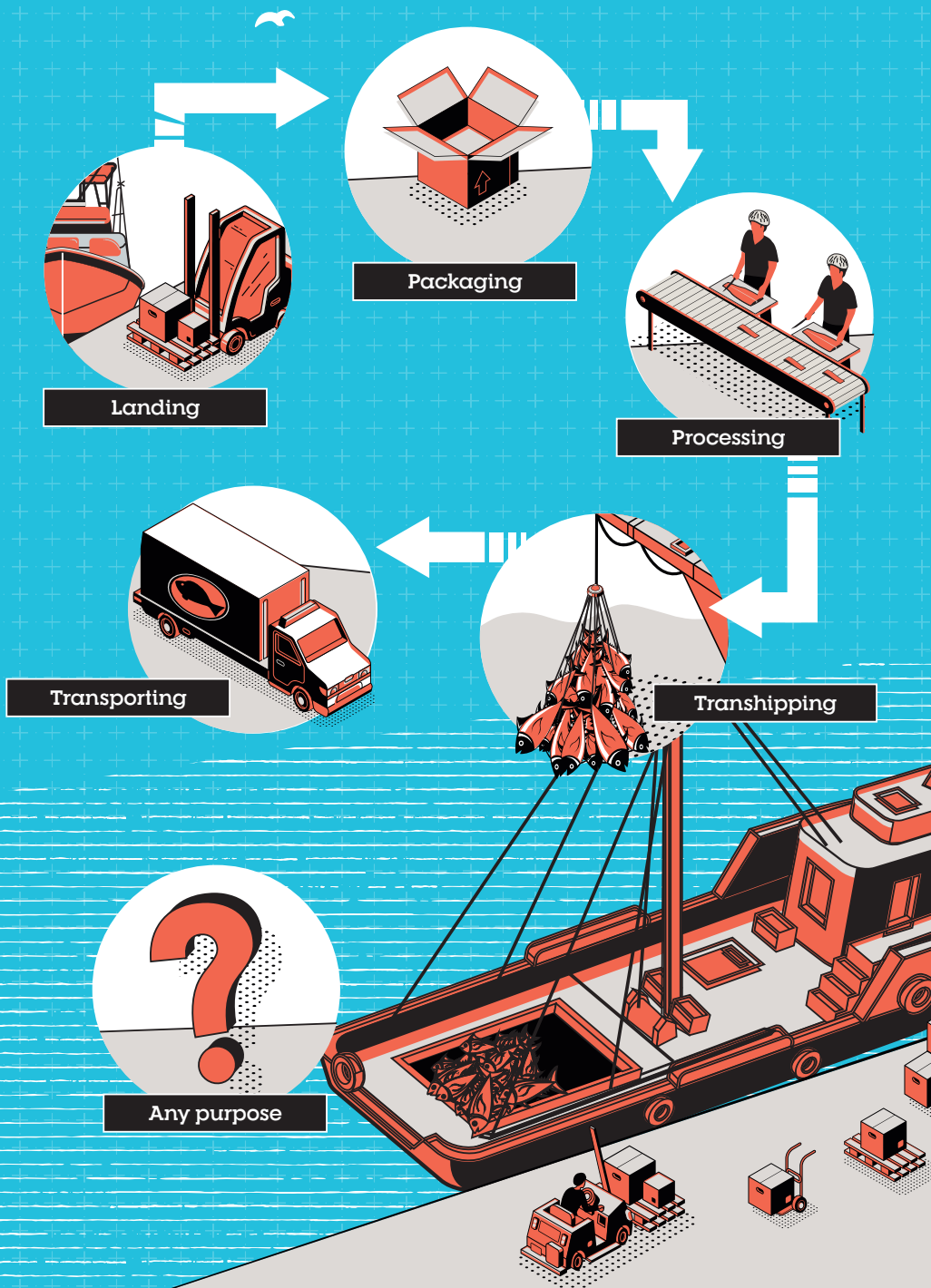
The **use of port** is an important concept, because vessels must be denied the use of port in certain circumstances. Denial of use of port will offer opportunities for inspection and enforcement, but will also result in severe financial loss for the vessel owners and operators.

The denial of the use of port applies to landing, transhipping, packaging and processing of fish that have not been previously landed and for other port services, including, among other things, refuelling and resupplying, maintenance and drydocking.

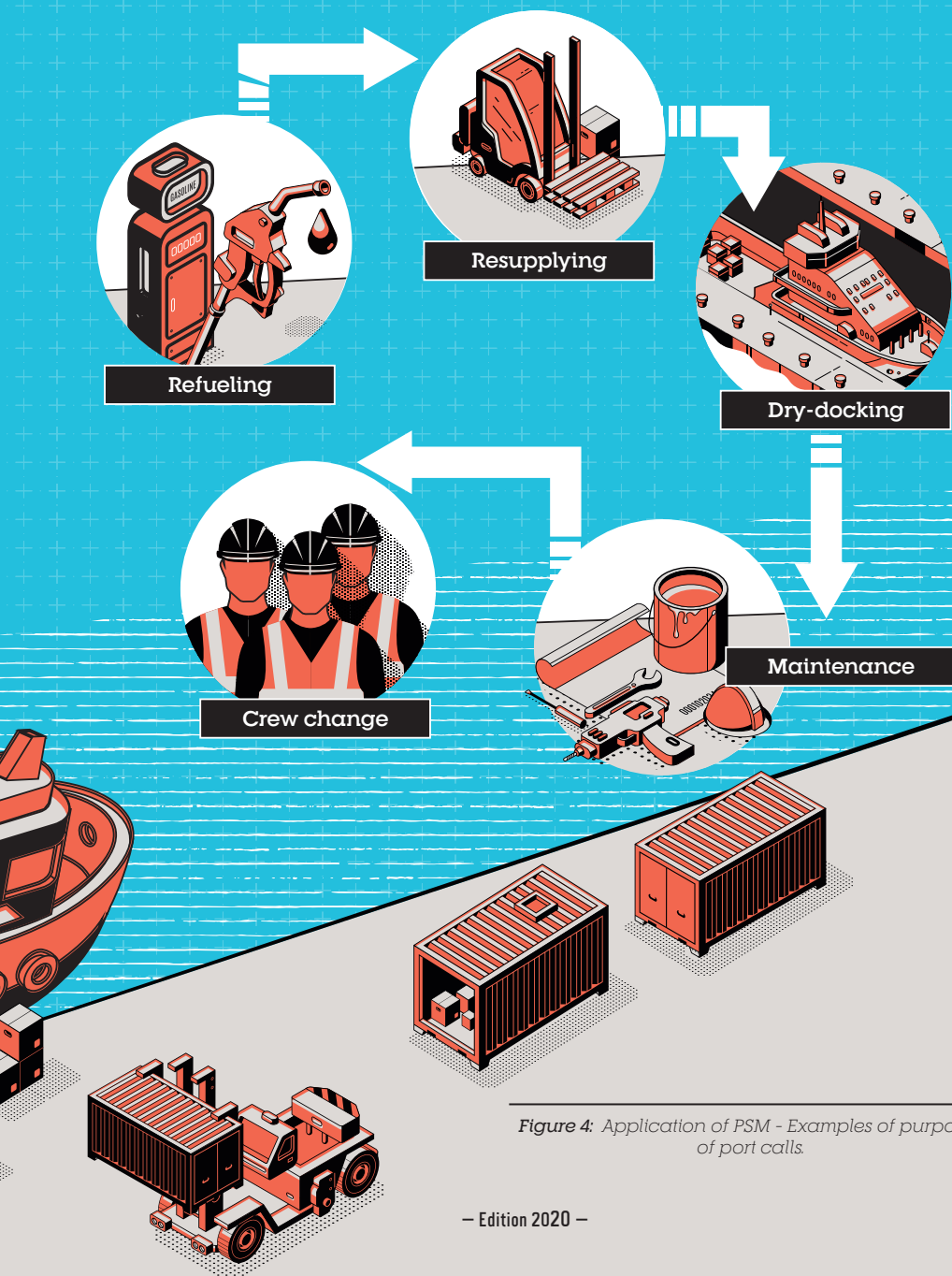
Some uses of port are shown in Figure 4. It will be important for national legislation to underpin denial of port use under specified circumstances, and to provide for violations where any person uses a port in contravention of a denial.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation







*Figure 4: Application of PSM - Examples of purposes of port calls.*

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*



**Figure 5:** Tuna landing operation in the port of Dikovita, Sri Lanka.

## 2

# Interagency integration and coordination at the national level

### 2.1.

The broader system of port controls

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### 2.2.

Integrating port State measures with  
other measures to combat IUU fishing

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### 2.3.

Exchange of information among  
relevant national agencies and  
coordinate their activities in  
implementing the IOTC PSMR

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### 2.4.

Interagency Memorandum  
of Understanding (MoU)

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## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

The IOTC PSMR requires integration and coordination at the national level.

CPCs are required, to the greatest extent possible to integrate or coordinate fisheries related port State measures with the broader system of port State controls, such as those for merchant vessels. They must also integrate measures with other national measures that address IUU fishing, such as monitoring control and surveillance (MCS) arrangements, and take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies.

The fisheries agency generally takes the lead for implementing IOTC Resolutions, but because there are many aspects to IUU fishing - as well as to ports and national enforcement - countries are encouraged to establish interagency coordination. Some activities that could be incidental to, or associated with IUU fishing and other relevant agencies include import/export of fish and fish products (health, customs, trade, veterinary), international criminal activity (illegal smuggling of drugs, arms, people), non-compliance with fisheries and other legislation (Attorney-General's Office, foreign affairs, police, defense), use of port (port authority, trade and industry, labor, immigration).

## INTEGRATION AND COORDINATION AT THE NATIONAL LEVEL

**CPCs are required, to the greatest extent possible, to:**

- 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...;*
- 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."*

Although fisheries authorities are recognised as the primary authority responsible for implementing the IOTC Resolutions, other agencies exercise control over import and export of products from foreign vessels entering port, including fishing vessels and fish products and these can also have an impact on combating IUU fishing.

National agencies that enforce other international arrangements may overlap with fisheries activities, such as the International Maritime Organization (IMO) system of port controls and the standards set by the World Customs Organisation on trade to combat the smuggling of illicit goods through ports. Such controls impact on all products from foreign vessels landed in port, including fish products.

Another example is the need for co-ordination with border police due to the criminal nature of IUU fishing activities and the association of some fishers with crimes such as drug smuggling or human trafficking. They are responsible for monitoring international criminal activities and often work with Interpol.

The possibility of parallel investigations taking place without the awareness and cooperation of one or other of the national agencies could result in conflicting decisions and actions jeopardising sensitive investigations of all concerned.

These examples illustrate the need for interagency coordination, which can be effected through an agreed Memorandum of Understanding (MoU) among all concerned agencies. An MoU would provide a legal mandate, avoid overlapping activities, identify procedures or a process to develop them, promote cooperation, and clearly define areas where coordination is required, designate the responsible agencies and specify the information that needs to be shared for a consolidated front to combat IUU fishing. A Model MoU on National Interagency Cooperation is in Annex 2 and is available on the IOTC website at <https://www.iotc.org/compliance/port-state-measures>.

## Port State Measures

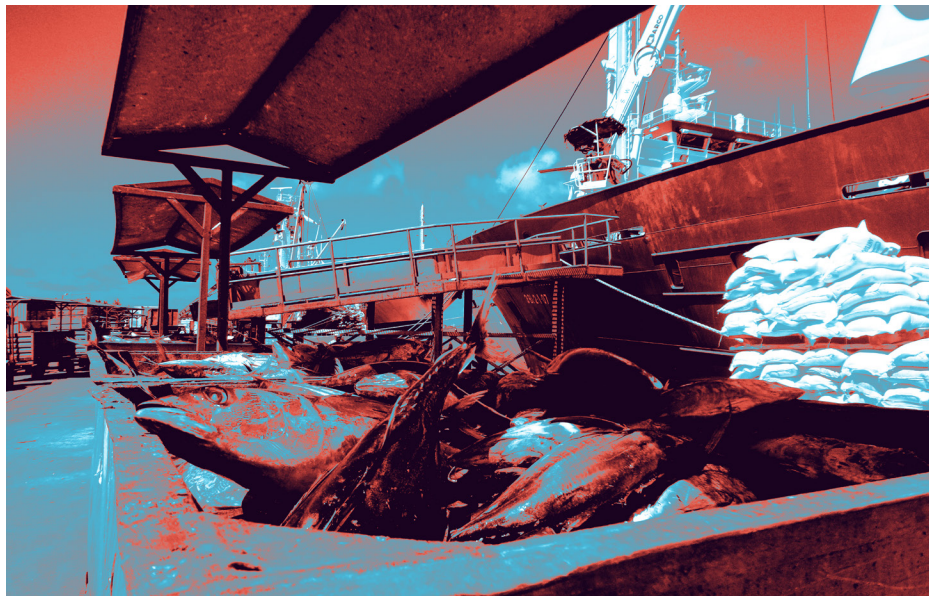
Guidelines on best practices for interagency cooperation at national level and regional cooperation

### 2.1. The broader system of port controls

**T**he broader system of port controls involves a number of different government agencies involved in fisheries and port management. Each may operate independently, within its own mandate given under national legislation.

The Fisheries Authorities should have the statutory responsibility for the conservation and management of fish in areas within and beyond national jurisdiction in accordance with international law and IOTC Resolutions, and for ensuring the implementation of IOTC Resolutions.

Therefore, they would be well positioned as having lead authority and responsibility to coordinate the implementation of the IOTC PSMR.

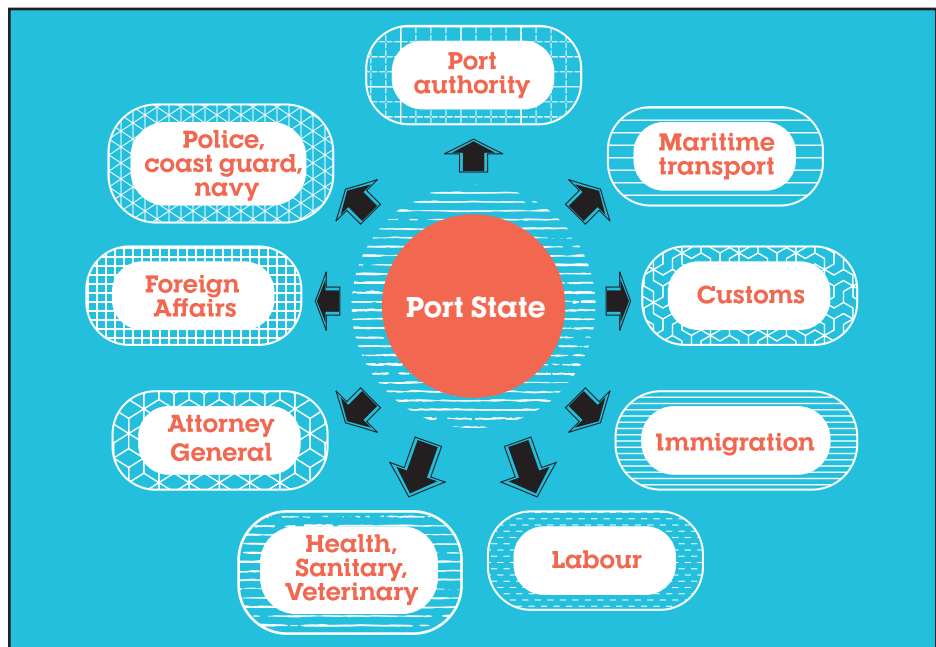


**Figure 6:** Tuna landing operation to a cannery in port Victoria, Seychelles.



Their responsibilities support such authority, and include the conservation and management of the fisheries resources, the collection, maintenance, exchange and dissemination of fisheries-related data and information, liaison with regional fisheries bodies, including IOTC, and other countries on fisheries matters and the monitoring, control and surveillance of fisheries and related activities, including inspection and enforcement.

National agencies that will foreseeably be involved or have a mandate over decisions and operations involving foreign fishing vessels in port and where cooperation will be required would include, *inter alia*:



**Figure 7:** Interagency cooperation - national agencies with which cooperation should be established to implement port State measures.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### What is Port State Control?

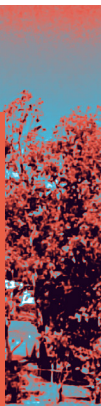
International agreement to coordinate port State control was first established in 1982. It targets merchant vessels and involves the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment complies with the requirements of agreed international standards and that the ship is manned and operated in compliance with these rules. International Maritime Organization (IMO) and International Labour Organization (ILO) conventions provide the basis for the implementation of port State control.

Many of IMO's and ILO's most important technical conventions contain provisions for ships to be inspected when they visit foreign ports to ensure that they meet IMO/ILO requirements. However, the inspections do not target fishing vessels.

These inspections were originally intended to be a back up to flag State responsibility, but experience has shown that they can be extremely effective, especially if organized on a regional basis. A ship going to a port in one country often visit other countries in the region before embarking on its return voyage and it is to everybody's advantage if inspections can be closely co-ordinated.

This ensures that as many ships as possible are inspected but at the same time prevents ships being delayed by unnecessary inspections. The primary responsibility for ships' standards rests with the flag State - but port State control provides a "safety net" to catch substandard ships.

IMO has encouraged the establishment of regional port State control organizations and agreements on port State control. Memoranda of Understanding (MoUs) have been signed covering all of the world's oceans: Europe and the north Atlantic (Paris MoU); Asia and the Pacific (Tokyo MoU); Latin America (Acuerdo de Viña del Mar); Caribbean (Caribbean MoU); West and Central Africa (Abuja MoU); the Black Sea region (Black Sea MoU); the Mediterranean (Mediterranean MoU); the Indian Ocean (Indian Ocean MoU); and the Riyadh MoU.







**Figure 8:** The bay of Antsiranana, Madagascar, where the port of Diego Suarez is located.

To establish broader systems of port controls and strengthen cooperation between fisheries agencies and other national agencies, the following areas need to be addressed:

1. *Identify mandates and procedures.* A primary concern is to assess the relevant legal mandates of the various agencies in relation to port State measures and, where there may be weaknesses, conflicts or inconsistencies, ensure cooperative processes through an interagency agreement of protocol such as a memorandum of understanding MoU. The MoU should endeavour to:

- ensure that the fisheries authority has the lead overall responsibility for measures involving fisheries;
  - specify the roles of all agencies in relation to each relevant requirement of the IOTC Resolution on port State measures;
  - describe the decision-making authority and process; and
  - describe the communications requirements, including focal points, contacts and access to databases.
2. Where possible and desirable, legal amendments to the mandates of the various agencies may be explored with senior management.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

### *The broader system of port controls* *Government agencies involved in port management*

Government agency	Mandate & area of intervention
<b>Fisheries Authorities (as competent authority to implement the PSMR)</b>	Lead authority responsible to implement port State measures described in IOTC PSMR. Receive advance requests to enter port (AREP), liaise externally to seek information on possible IUU activities, decide or recommend on port entry/denial, conduct inspections, allow/deny use of port services.
<b>Port Authority</b>	Receive requests to enter port, control entry into port, manage berthing and use of port facilities and services.
<b>Maritime/Transport Authority</b>	Inspect vessels to ensure international maritime standards are complied with (e.g. safety of life at sea, prevention of pollution, living and working conditions onboard).
<b>Customs</b>	Inspect and provide customs clearance for fish, fish products and other items to be landed or transhipped in port.
<b>Immigration</b>	Inspect identification documents showing nationality of master and crew, and ensure validity of documentation. The role of Immigration officers is to ensure that immigration legislation is enforced.
<b>Health/Sanitary/Veterinary Authority</b>	Inspect fish and fish products to ensure compliance with relevant national standards, laws and regulations.
<b>Labour</b>	Inspect and investigate to ensure that relevant national and international standards for labour are being met.
<b>Police, Coast Guard, Navy</b>	Investigate and enforce national laws.
<b>Attorney General</b>	Ensure national laws are adequate to implement the IOTC PSMR, review outcomes of investigations and support legal or administrative proceedings in cases of suspected non-compliance or violations.
<b>Foreign Affairs</b>	Take necessary action pursuant to applicable international and national law and policy, including with flag States, other coastal and port States, IOTC CPCs and relevant regional and international organizations.

## ***Port State Control and maritime conventions***

**T**here are several key instruments that have been adopted by the IMO. They set international standards concerning a wide range of matters related to the safety of life at sea; the prevention of pollution by vessels; the living and working conditions on board ships. The key international maritime conventions are:

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- International Convention on Load Lines 1966, as amended, and its 1988 Protocol, (LOADLINES 66/88);
- International Convention for the Safety of Life at Sea (SOLAS), 1974, its Protocol of 1978, as amended, and the Protocol of 1988, (SOLAS 74/78/88);
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended (MARPOL 73/78);
- International Convention on Standards of Training, Certification and Watch keeping for Seafarers 1978, as amended (STCW 78);
- Convention on the International Regulations for Preventing Collisions at Sea 1972, as amended (COLREG 72),
- International Convention on Tonnage Measurement of Ships 1969 (TONNAGE 1969).

### Port State control and labour conventions

**T**here are three key instruments that have been adopted by the International Labour Organization (ILO) at the 94th and 96th Sessions of the International Labour Conference. They set international standards concerning a wide range of matters related to the work on-board ships and the work in the fishing sector. The key international labour conventions are:

- Maritime Labour Convention, 2006 (MLC, 2006);
- Work in Fishing Convention, 2007 (No. 188 or C188); and
- Work in Fishing Recommendation, 2007 (No. 199 or R199).

The objective of the Convention C188 is “to ensure that fishers have decent conditions of work *on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security*”.

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The Convention C188 has requirements for all vessels and higher requirements for certain vessels (generally those 24 metres in length and over, but also for those at sea for extended periods of time), concerning:

- safety on board fishing vessels;
- food, accommodation and medical care at sea;
- employment practices, insurance and liability.

Work in Fishing Recommendation 2007 (No. 199) provides additional guidance on the matters covered by the Convention C188.

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The entry into force of the MLC 2006 was in August 2013 and of the C188 in November 2017.

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Most of the labour and maritime conventions are not applicable to fishing vessels or are applicable to fishing vessels above a certain length overall or tonnage, however they may be applicable to vessels involved in fishing related activities, such as reefers, carrier vessels or any support vessels.

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## **2.2. Integrating port State measures with other measures to combat IUU fishing**

IOTC PSMR calls for CPC port States to *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 (IPOA-IUU).*

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The IPOA-IUU was endorsed by the FAO Committee on Fisheries in 2001. It is one of four IPOAs that were elaborated within the framework of the 1995 FAO Code of Conduct for Responsible Fisheries.

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The IPOA-IUU sets out principles and provides measures to prevent, deter and eliminate IUU fishing for implementation by all States and regional economic integration organizations such as the EU, and also specifically by coastal, flag, and port States. In addition it elaborates, for all States, internationally agreed market-related measures and measures/actions to be taken through RFMOs. IOTC PSMR

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Some fisheries-related measures which should be integrated with port State measures are:

- licensing of foreign vessels and regulation of fisheries and port access;
- Vessel Monitoring Systems (VMS);
- observer programmes;
- inspections at sea; and
- fisheries enforcement reporting and information systems.

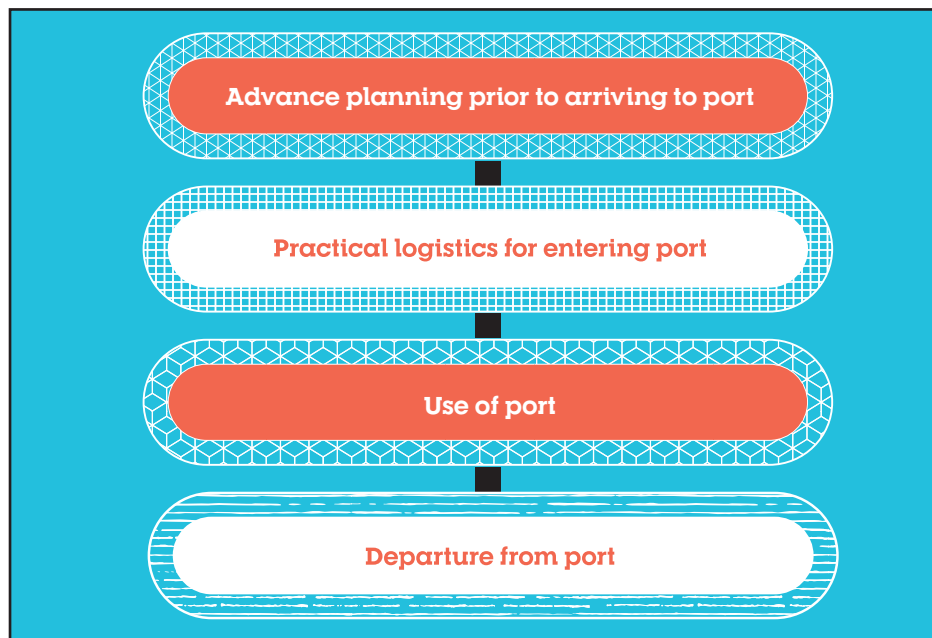
Other measures set out in the IPOA-IUU may also be considered, such as ensuring that national legislation fully implements port State measures and provides for related matters such as evidentiary standards and admissibility (e.g. the use of electronic evidence and new technologies).

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### ***2.3. Exchange of information among relevant national agencies and coordinate their activities in implementing IOTC PSMR***

A broad perspective of information flow for foreign vessels seeking entry into port can be viewed in a series of simplified sequential phases, from their planned arrival to departure. At each step there should be several agencies involved, each having specific objectives in coordinating access to port and use of port facilities and services.

These can be placed into four broad categories:



**Figure 9:** Main sequential phases of a vessel activity in port.

In parallel, the implementation of IOTC PSMR, in terms of the PSM process, matches these phases in:

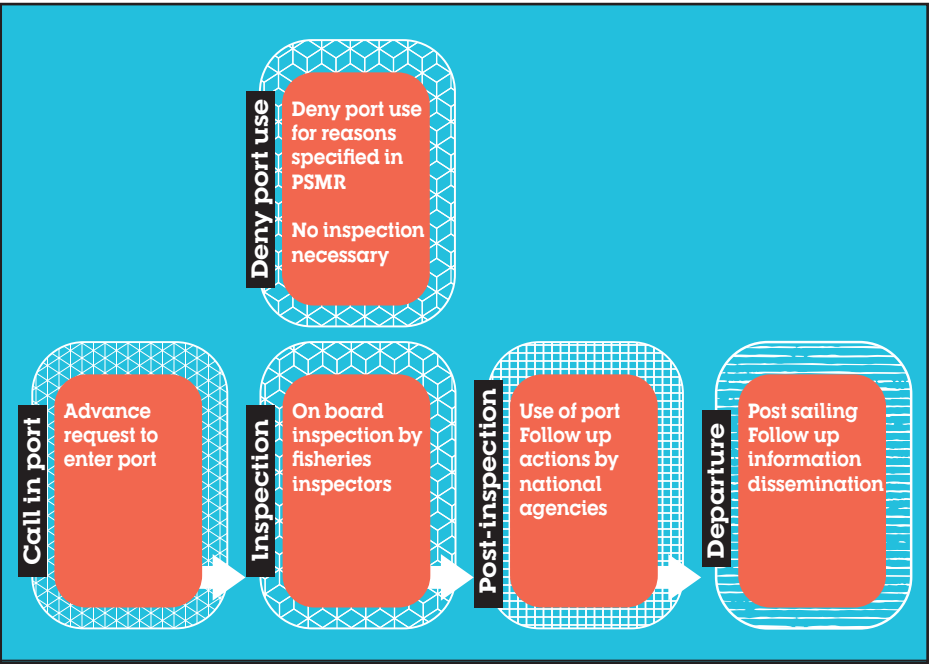


Figure 10: Vessel activity in port & the PSM process.

In each of these phases there is an overlap and a requirement for the exchange of information and cooperation between the vessel, its representatives, fisheries authorities and relevant national agencies, necessary for planning and managing a vessel's port visit (Table 1).

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

Phase of planned port visit	Fisheries Authorities Implementation of IOTC Resolution	Various Agencies Coordination of vessel activities in port and services
<b>Advance notice of date and time of arrival to port</b>	<p>Advance Request to Enter Port (AREP)</p> <p>Analysis of AREP</p> <p>Port State decision: Deny or grant port entry, or</p> <p>→ grant entry exclusively for inspection with use of port denied pending results;</p> <p>→ grant entry for force majeure but only to address specific reason claimed.</p>	<p>Advance notice port control and pilot (if applicable)</p> <p>Planned berthing space</p> <p>Advance notice to berthing parties</p> <p>Notification to health sanitary and veterinary services</p>
<b>Port Entry only for purposes of inspection</b>	Deny use of port.	<p>Fisheries notification to other agencies:</p> <p>→ joint inspection coordination;</p> <p>→ deny use of port pending inspection outcomes.</p>
<b>Port Entry for purposes of force majeure</b>	Allow restricted use of port to address the specific reason for the force majeure.	<p>Fisheries notification to other agencies:</p> <p>→ joint inspection coordination;</p> <p>→ restrict use of port for specific claim of force majeure</p>
<b>Port entry</b>	<p>Information received of IUU activities, including:</p> <p>→ vessel does not have authorisation/licence from flag State or relevant coastal State;</p> <p>→ illegal catch from coastal State on board;</p> <p>→ flag State does not confirm legal catch;</p> <p>→ reasonable grounds to believe IUU fishing activities.</p> <p>Port State required to deny use of port</p>	<p>Fisheries notification to other agencies:</p> <p>→ deny use of port.</p>



Phase of planned port visit	Fisheries Authorities Implementation of IOTC Resolution	Various Agencies Coordination of vessel activities in port and services
<b>Inspection on board</b>	On board inspection by fisheries inspectors	Joint inspection coordination with national agencies
		Inspection report Decision on denial of use of port and other potential action(s)
<b>Inspection of offloading and transhipment</b>	Monitor the entire discharge or transhipment by fisheries inspectors	Requests for customs services for import and export of goods
Decision on use of port  Follow up actions	Decision: Deny use of port or grant where vessel's entry into port was granted only for purposes of inspection.	Fisheries notification, deny use of port or permit where use of port denied pending inspection  Enforce prohibition on use of port
Vessel departure and post sailing	Post-sailing reports and clearance for departure  Follow-up information dissemination	Port, customs and immigration clearance  Advance notice to port control and pilot  Advance notice to berthing parties

*Table 1: Essential information exchanges during the PSM inspection process to coordinate permission or denial of use of port services.*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

**T**he fisheries authorities usually have a statutory responsibility for the implementation of IOTC Resolutions that include the collection and exchange of fisheries-related data and information.

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Similarly, other national agencies routinely and independently collect and disseminate information in accordance with their mandates concerning vessels coming to port (Annex 1) and are often unaware of the same or similar requirements of other agencies.

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To strengthen the port State measures communication and information systems internationally and facilitate national coordination in the implementation of port State measures, IOTC has developed an application for electronic reporting (e-PSM) and initiated a training programme. It is applicable to all vessels that are subject to the IOTC PSMR as described in the IOTC PSMR, which also sets out the terms of its use

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Each CPC may utilise the e-PSM system, available via the IOTC website, to implement the Resolution. A trial period of three years from 2016 was provided to allow for the delivery of the training programme and further improvement and development. CPCs must encourage all stakeholders (vessel representatives, port

States and flag States) to utilise, to the greatest extent possible, the e-PSM application to comply with the Resolution and provide feedback and inputs contributing to its development until 1st January 2020.

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At the sixteenth session of the Compliance Committee the success of this application was evaluated and consideration given to making its use mandatory and defining a period for implementation. After this date the possibility to submit an advance request for port entry manually would remain should access to the Internet not be possible for any reason.

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The e-PSM application contains an overview of the e-PSM process and provides explanations and forms for the vessel file listing, risk assessment process, AREP process (including submission, receiving, creating a form, sending an AREP and receiving a response, sending notifications to fishing vessels), the port inspection process, the transshipment monitoring process and vessel files (sharing, status).

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User manuals are available on the IOTC website (<http://epsm.iotc.org>) for the port State, flag State and vessel, as well as for the non-flag State and non-port State users.

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The e-PSM system should be established at national levels with a view to interagency sharing of relevant information.

An understanding of all other agencies' obligations and cooperation among them would serve to save time and effort and could result in more effective decision-making

and discharge of their various responsibilities. To achieve this level of cooperation there is a need to establish inter-agency committees and through these, develop legally binding MoUs (Annex 2), that can develop or enhance the working relationships between the responsible fisheries authority and other primary agencies in port management and vessel and product control.

## ***BEST PRACTICES - GUIDE FOR INTERAGENCY COOPERATION - DECISION MAKING***

### ***Create INTERAGENCY COMMITTEE tasked with:***

- establishing procedures for port State measures to be carried out by "front line" fisheries managers and inspectors, in cooperation with other agencies as needed;
- establishing clear lines of communication and procedures to be carried out in coordination with other key national agencies involved with providing services to vessels in port.

### ***ENSURE that:***

- fisheries authorities are recognised as the statutory lead authority for decisions on foreign fishing vessels entering port and in port;
- port authorities and other relevant agencies are legally bound to cooperate with the fisheries authority;
- a national hierarchy is identified concerning responsibilities and communications relating to fishing vessels requesting entry into, or that are in port.

## 2.4. Interagency Memorandum of Understanding (MoU)

**T**he objective of an interagency MoU is to strengthen the combined efforts of the agencies to effectively implement national laws and international obligations that address IUU fishing activities.

An independent assessment should be made of existing national legislation and relations among agencies that describes relevant mandates and procedures and recommends best practices for interagency cooperation to implement IOTC PSMR requirements on a national level.

The assessment should cover the relevant legal mandates of the various national agencies in relation to port State measures and identify where there may be weaknesses, conflicts or inconsistencies and develop co-operative processes that endeavour to:

- ensure the fisheries authority has lead overall responsibility for measures involving fisheries and fisheries related activities taking place prior to entry into port and in port;
- specify the roles of all agencies in relation to each relevant requirement of the IOTC Resolution;

→ describe the decision-making authority and process; and

→ describe communications requirements in-country and regionally, including focal points, contacts and databases.

The process should be facilitated at senior decision making level within the State. The objective would be to identify mechanisms for cooperation and, identify changes that should be made to the mandates (by law) of national agencies or the procedures. Consideration should be given at this point to establishing MoU among agencies to facilitate cooperative working relationships within the law.

A clear national hierarchy should be established among all agencies involved with foreign fishing vessels entering port and facilitate regional and international cooperation by identifying legally responsible authorities for the exchange of information.

### Minimum legal requirements

**T**he operational activities for port State measures are mainly carried out by “front line” fisheries managers and inspectors, in cooperation

with other agencies as needed. As shown above, clear procedures are required for effective operations, but many of the procedures require underpinning by national law.

For example, if vessel operators are not legally required to report, or inspectors don't have the legal authority to inspect or take information, or there is no legal authority to deny the use of port under stated circumstances, the procedures may be useless.

Even worse, a vessel operator may bring legal action against the port State for proceeding without sufficient legal authority.

Conversely, there must be legal obligations on the owner, operator, master and crew of a vessel to cooperate and assist with an inspection, not to obstruct inspectors, to provide all information and reports required by law, and to give information that is true, complete and correct.



*Figure 11: Landing of tuna from a carrier vessel to a cannery in the port of Antsiranana, Madagascar.*

# INTERAGENCY MEMORANDUM OF UNDERSTANDING

## *Objectives of an interagency MoU:*

- strengthen working relationships between national Fisheries Authority and relevant agencies (to exercise effective port State measures over foreign fishing vessels);
- strengthen combined efforts of agencies to effectively implement national laws and international obligations (to combat IUU fishing and fishing related activities);

MoU among applicable agencies responsible for ports:

- |                                  |                          |
|----------------------------------|--------------------------|
| → Fisheries                      | → Veterinary Authorities |
| → Port Authorities               | → Labour Authorities     |
| → Maritime/Transport Authorities | → Police                 |
| → Customs Authorities            | → Coast Guard/Navy       |
| → Immigration Authorities        | → Attorney General,      |
| → Health/Sanitary Authorities    | → Foreign Affairs.       |

## *The MoU should endeavour to:*

- ensure the fisheries authority has lead overall responsibility (for measures involving fisheries and fisheries related activities taking place in ports);
- specify the roles of all agencies to requirement of the IOTC PSMR;
- describe the decision-making authority and process; and
- describe communications requirements, including focal points, contacts and databases.

**I**n many countries, there is a mistaken belief that all legal authority and responsibilities are in place. However, surveys of some of the CPCs legislation done under IOTC-related projects in recent years have shown that the legislation does not normally provide the necessary authority and mandate.

An IOTC programme of assistance for some CPCs to strengthen national legislation has been undertaken so that port State measures - including laws and procedures - may be more effectively implemented. To support this initiative, a model port State measures regulation was developed and is available on the IOTC website at <https://www.iotc.org/compliance/port-state-measures>.

A FAO publication to assist countries in the implementation of the IOTC PSMR in national legislation and procedures includes a legislative template for port State measures and supporting provisions. It is available in English, French and Spanish at <http://www.fao.org/in-action/commoceans/news/detail-events/en/c/891618/>. It will be necessary for each country to ensure that a minimum legislative standards exists for implementing its legal obligations under IOTC.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### Minimum standards for cooperation with other CPCs and IOTC

**T**he ability of vessels to move freely across high seas areas of different RFMOs and the waters under jurisdiction of coastal States requires efficient and consistent cooperation among port States and RFMOs to combat IUU fishing.

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To be effective, such cooperation should be endorsed on a national level and national agencies in charge of implementation need to be identified.

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The cooperation among port States, flag States, the IOTC and other relevant RFMOs are, to a large extent, dependant on and interconnected to processes at national level that requires the exchange and verification of information for analysing an AREP, requesting additional information and reporting inspection results. The IOTC e-PSM system should be used to facilitate communications and information sharing.

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Fundamental areas for sharing information include:

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- IUU vessel listing by RFMOs or any other relevant international organisation;
- flag State issuance of authorisations to fish (ATF) or undertake related activities and any other relevant licences for fish or related activities on the high seas and/or in other States' waters in the area of competence of relevant RFMOs;
- coastal State issuance of licenses for fishing or related activities for its national waters;
- inclusion of vessels on a relevant RFMO's Record of Authorised Vessels for fishing or related activities within their area of competence;
- provision of VMS information from the flag State, coastal State, RFMOs;
- reports of denial of entry into port from other port States; and
- other relevant transshipment authorisations and transshipment declarations.





*Figure 12: Direct offloading of tuna from a purse seiner into a container in port Victoria, Seychelles.*

# 3

## Best practice guide to national interagency cooperation

### 3.1.

Analysis of the AREP - Port entry,  
authorization and denial

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### 3.2.

Standard Operating Procedures  
between Fisheries Authorities and  
other relevant agencies

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### 3.3.

On-board inspection in port and  
follow up actions

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### 3.4.

Port State actions following an  
inspection

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Cooperation and information exchange, including notification, among fisheries authorities and other national agencies in the implementation of the IOTC PSMR on port State measures can occur at six steps within the PSM process:



*Figure 13: The six steps requiring cooperation and information exchange among national agencies.*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

Cooperation among fisheries authorities and other national agencies is essential in all cases following the decision to allow or deny a vessel port entry, including to allow it port entry exclusively for the purpose of inspection or *force majeure* (Figure 13).

In the first case, when the vessel has been denied entry, authorities must ensure that the vessel does not enter or use the port.

In the second case, a vessel may be allowed entry but denied use of port prior to inspection in three circumstances: (a) where a vessel is considered “high risk” and has been granted conditional entry - exclusively for purposes of inspection; (b) where certain information has been received indicating IUU fishing activities or there is reasonable belief that this had occurred; (c) where entry has been granted for force majeure but only for purposes related to the claim. In such situations cooperation is necessary to ensure the vessel presents the authorisation to enter port on arrival and to ensure the vessel is not provided port services and is otherwise denied the use of port.

In the third case, after inspection use of port may be denied, except where the vessel was permitted to

enter conditional on inspection and IUU fishing activities were not established.

A clear procedure and information exchange mechanism should be established to notify agencies when denial of entry or use of port has been imposed and, if relevant, lifted.

Where there is port inspection, national agencies must cooperate during the port inspection and during follow-up where the vessel is denied the use of port.

Examples situations where cooperation is essential include where the vessel is detained (e.g. custody requires cooperation with the police), the catch is seized and auctioned (e.g. cooperation with sanitary/health authorities to certify that the catch is fitted for human consumption) and legal or administrative procedures are instituted (e.g. cooperation with legal authorities).

Clearance procedures for the departure of the vessel should be established. The departure from port should require the authorising agency (in general port authority or harbour master) to coordinate with other national agencies to ensure that the vessel has fulfilled all requirements (legal, technical and

financial) to be authorised to depart the port. A vessel should be able to leave port only if it is fully compliant with all technical requirements of all relevant IOTC Conservation and Management Measures (e.g. flag State authorisation to fish and vessel's documents and logbook are on board, marking of vessel and fishing gear, VMS is functioning, turtle mitigation devices are on board).

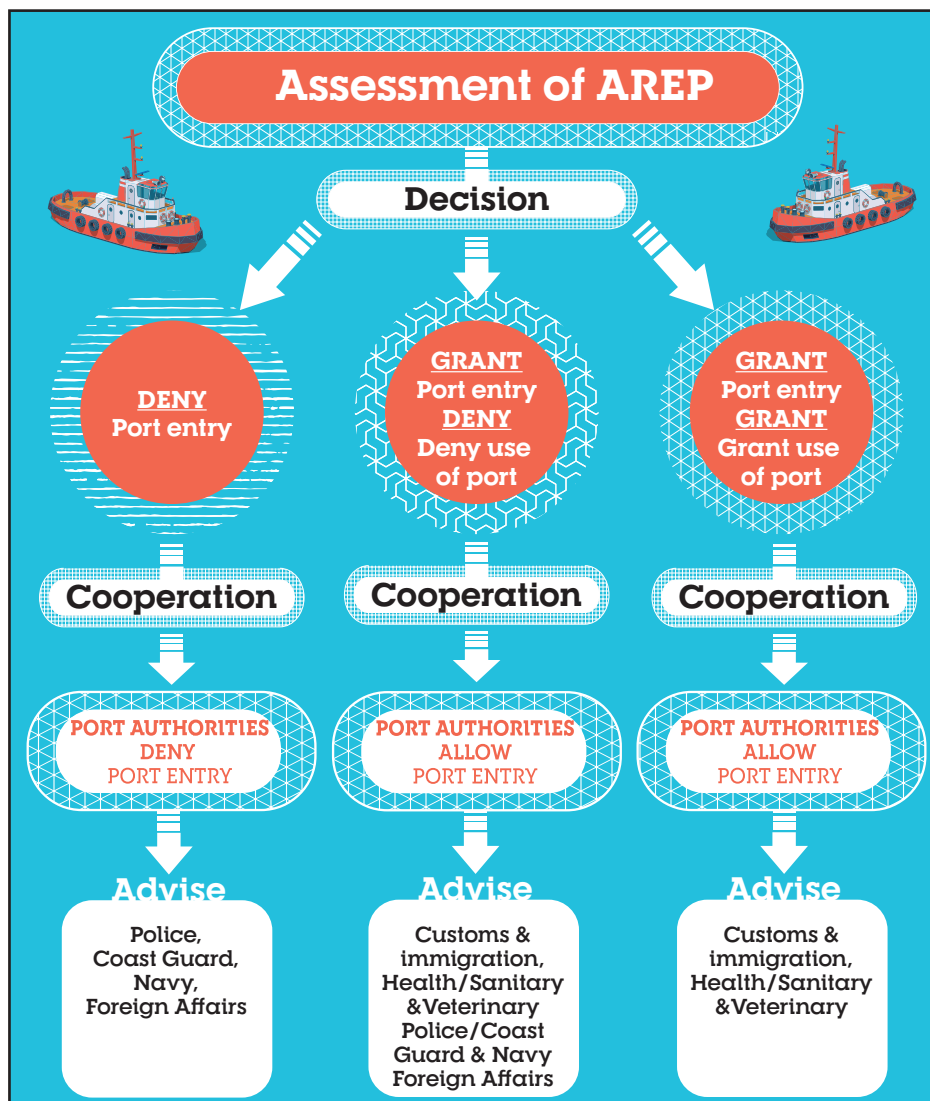
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### ***3.1. Analysis of the AREP - Port entry, authorization and denial***

**T**he IOTC PSMR, requires a vessel wishing to enter a port of a CPC to provide the information requested in Annex 1 (AREP) of the IOTC PSMR 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.

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### Guidelines on best practices *for interagency cooperation at national level and regional cooperation*



**Figure 14:** AREP / risk analysis and cooperation required from relevant authorities.

**T**his requires the port State to have in place national legislation and the capacity to receive, process and analyse an AREP and seek further information in advance of a vessel arriving at the port limits. This is a minimum standard and *there is nothing preventing a port State to require a longer lead period to allow sufficient time to do a risk assessment on the vessels that submit an AREP.*

The AREP initiates the procedure for researching and verifying a vessel's

background, owners, master and history of fishing or related activities prior to granting or denying port entry. The IOTC e-PSM application facilitates this through providing forms and processes for: the AREP, requests for additional information (RAI), Risk Assessment Report (RAR) and notification of a decision to vessels (NFV).

Decisions on port entry may then be taken as shown in Figure 15. IOTC PSMR

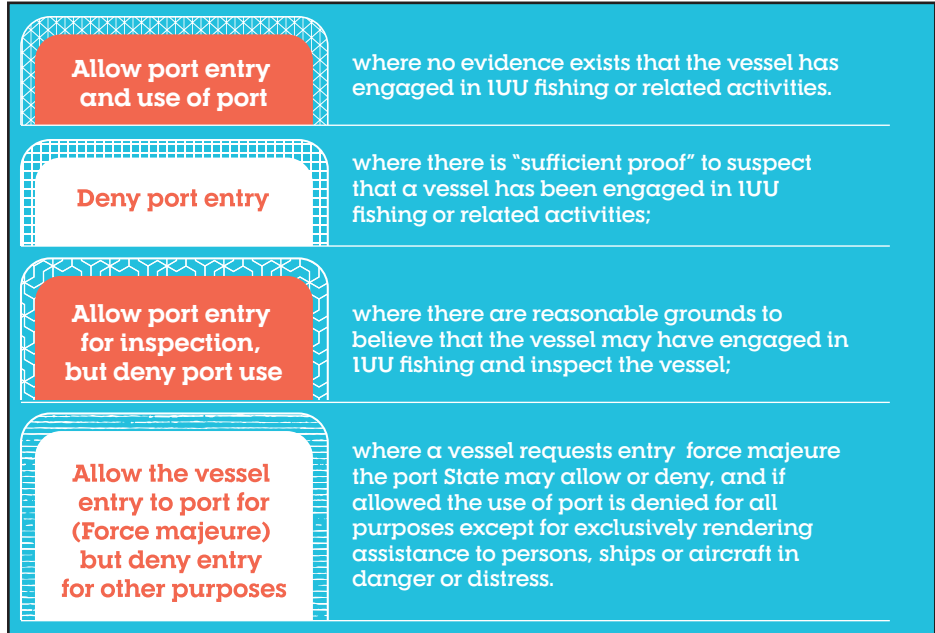


Figure 15: Port State decisions to allow or deny port entry

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

Note: In an event of *force majeure*, the port State has absolute sovereignty over its port and can deny entry. Requests for port entry for *force majeure* should be verified if possible (many vessels make false requests). If port entry is allowed, use of port should be denied except for the purposes for which *force majeure* has been requested, and exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

The primary level for national cooperation at port entry would be between fisheries authorities, in their role to assess a vessel's request to enter port, and port authorities that are directly involved with coordinating the vessel's entry into port. Port authorities may also interact with other agencies, such as customs and immigration and sanitary/health, that have legal mandates to perform specific tasks that may not directly involve the fisheries authorities.

The fisheries authority should be recognised (in legislation or through interagency MoUs) as the lead authority for making final decisions on port entry for foreign vessels are involved in fishing or related activities. Other agencies involved with such vessels in port must be obligated to cooperate fully with the fisheries authority to uphold its decisions, including

denial of port entry and, when entry is allowed, supporting denial of port use under the circumstances described above and permitting and cooperating in the full process of port inspection as appropriate. .

When a vessel is denied entry into port IOTC PSMR, the port State is required to communicate this decision to the flag State of the vessel and as appropriate and to the extent possible to the coastal State(s) and the IOTC Secretariat. (Paragraph 7.3 of IOTC PSMR) It is recommended that the port State keep national agencies in copy of such communication.

Port authorities that manage vessel entry into port, berthing and provision of port facilities (e.g., refuelling, docking and repairs) must be aware that a decision to deny a vessel entry into port is a legally binding IOTC obligation, and that they are required to conform by refusing port entry if a vessel which has been denied permission to enter port attempts to request directly from port authorities for a pilot or permission to enter port.

The port authorities need to further ensure that the vessel remains outside the port limits, and refuse or prevent any use of port, including services rendered via port supply vessels without the knowledge of the fisheries or other authorities.





*Figure 16: The port of Zanzibar, Tanzania.*

Depending on the circumstances, other entities that require a vessel to be boarded outside the port may include:

- flag States requests involving compliance by their own vessels; or
- investigations by regional or international organisations such as

INTERPOL, in accordance with international law and in cooperation with the port State's police or water wing of port security.

In these situations, a system of formal communication among all agencies involved is needed to coordinate their actions.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

As noted above and taking into consideration the confidentiality and sensitive nature of investigations, it is essential that these processes are legally supported in the national legal framework or an interagency MoU.

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A risk in maintaining cooperation among agencies exists when the authority and procedural knowledge rests with a few senior managers. Cooperation is jeopardised when key personnel are moved or not available to make operational decisions when urgently needed. It is, therefore, essential that interagency cooperation be strengthened through establishing stable internal structures and operating procedures within agencies.

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Best practices recommended for a national fisheries authority to overcome these risks would be to:

- establish and formally designate a unit within their authority responsible for receiving and processing AREPs (including RAIs and NFVs) with sufficient human resources and decision making authority to deal with all situations;
- establish a communications/information system and procedures that implement e-PSM and enables prompt exchange of information with other agencies;

- establish formal standard operating procedures (SOPs), in an MoU with the relevant departments of other agencies;

- publicise the contact details for this unit directly to:

- all relevant national agencies;
- relevant regional fisheries management organisations
- CPCs flag States of vessels which regularly enter and make use of port facilities.

## **BEST PRACTICE GUIDE TO IMPLEMENTATION OF IOTC PORT STATE MEASURES**

### ***IOTC PSMR Key decision making in three phases***

1. **BEFORE PORT ENTRY** Decision whether to permit entry to port:
  - a. with full use of port;
  - b. conditional on inspection (use of port prohibited);
  - c. conditional on force majeure (use of port for addressing distress only).
2. **AFTER PORT ENTRY** Decision whether to prohibit use of port:
  - a. after entry if authorisation to enter port is not received upon docking;
  - b. without inspection, based on assessment of certain evidence of IUU fishing /related activities or reasonable grounds to believe that vessel was otherwise engaged in IUU fishing/related activities; and/or
  - c. after inspection.
3. **POST-INSPECTION** Decision on follow-up activities where use of port is denied:
  - a. enforcement; and
  - b. notifications/information dissemination.

**The fisheries authority must be recognised as the lead authority for making decisions on foreign fishing vessels entering port.**

The primary level for national cooperation is between:

- fisheries authorities; and
- port authorities.

Other agencies involved with vessels (fishing, related activities) in port must be obligated to cooperate with fisheries and port authorities to uphold decisions made by the fisheries authority including:

- decisions to deny port entry;
- decisions to grant conditional port entry and deny or limit port use; or
- decisions to deny port use.

## Port State Measures

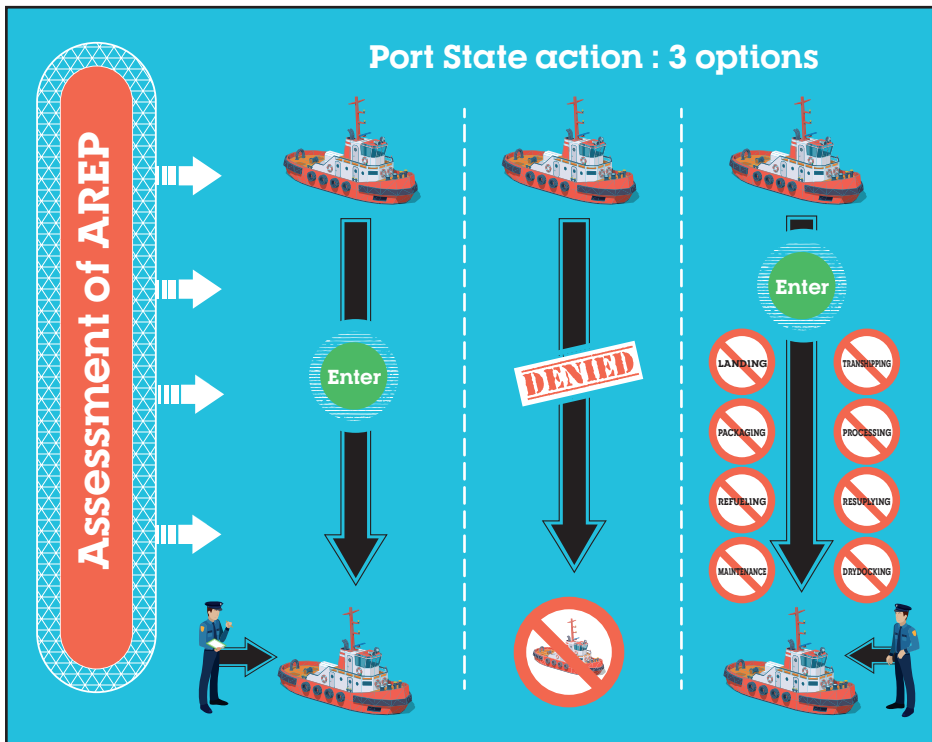
Guidelines on best practices for interagency cooperation at national level and regional cooperation



*Figure 17: Offloading of a purse seine net in port Victoria, Seychelles.*

### 3.2. Standard Operating Procedures between Fisheries Authorities and other relevant agencies

The interagency MoU and SOPs between port and fisheries authorities must provide clear guidance on procedures to follow for the main decisions that can be made from the AREP analysis prior to the vessel entering port:



*Figure 18: The three main possible port State actions following the assessment of the AREP.*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### Denial of port entry

The fisheries authority advises the port authority to refuse the vessel permission to enter port. The port authority denies the vessel port entry.

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**Allow port entry for force majeure but deny port use for any purpose except exclusively rendering assistance requested.**

**Allow port entry for inspection but deny use of port prior to the vessel being inspected by the fisheries authority**

Where a vessel, is given permission to enter port "exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law" or it has gained entry into port for any other reason without prior permission from the fisheries authorities, it must be denied use of port immediately and prior to the inspection taking place by the fisheries authorities.

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**Allow port entry for force majeure but deny use of port except for the reason for the force majeure, prior to the vessel being inspected by the fisheries authority**

In the event of a vessel requesting port entry directly from port authorities for *force majeure* or distress (in paragraph 8 of the IOTC PSMR, there are key actions that can be established in a SOP that include:

- the port authority first reports the situation back to the fisheries authority;
- if the *force majeure* claim relates to health emergencies or vessel safety, the sanitary/health/veterinary authorities or port engineers board the vessel outside the port to assess the health status or extent of any emergencies in order to decide if the claim is valid, if the situation requires immediate port entry and whether entry, if granted, would threaten the port State (e.g. through polluting the harbour, spread of disease or other) ;

where there is clear evidence of an emergency and no threat to the port State the vessel can be brought into port and automatically denied any use of port except for the purposes for which *force majeure* distress has been requested (e.g. services for the health and safety of the crew).



## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

### Deny use of port under specified circumstances, no inspection necessary

Where a vessel has entered a port of a CPC it shall be denied use of port if:

- the CPC finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
- the CPC finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- 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;
- 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
- the CPC has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing.

The fisheries authority must advise the port authority that use of port is denied. The decision must be communicated to all relevant divisions and agencies that are likely to be associated with the vessel's use of port. Vessel agents must be directed to prevent use of port for all purposes, including resupply, landing or transshipment.

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It would also be useful to communicate the decisions to persons and industries that provide services or supplies to vessels, for example bunkering, offloading, transshipment, provisioning and maintenance. In some countries, it is an offence to assist a vessel to use port services or undertake other relevant activities where use of port has been denied.

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Notwithstanding the denial of port use the following agencies will most likely be required to first board the vessel to inspect conformity with international port requirements:

- customs and immigration to apply their regulations;
- port health to inspect vessel and crew for infectious diseases and providing Maritime Declaration of Health;
- veterinary services to inspect and possible quarantine fish products; and



→ port security or border control.  
Where possible fisheries authorities should cooperate with port authorities and accompany them onto the vessel to ensure compliance with the conditions imposed for port entry.

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→ port bunkering;

→ vessel agents, for resupply or commencement of landing or transhipment by port stevedores; and

→ port engineers for repairs and maintenance.

### *Allow port entry and access to port facilities*

**A** port State may authorise entry into its ports with access to port facilities where a vessel has complied with all the requirements of the AREP and there is no evidence of its involvement in IUU fishing or related activities.

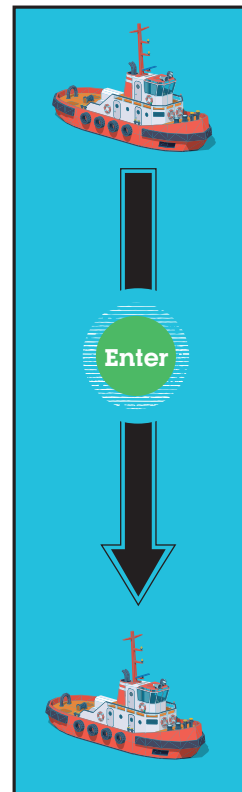
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In the case of authorization of entry, the master of the vessel or the vessel's representative is required to present the authorization for entry to the competent authorities of the port State upon the vessel's arrival at port.

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The fisheries authority advises the port authority to allow the vessel into port and grant requests for the use of port. The decision must also be communicated to all relevant divisions and agencies that are likely to be associated with the vessel in port, including :

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### **3.3. On board inspection in port and follow up actions**

**T**he priorities for inspection of foreign fishing vessels by CPC port States provided in the IOTC PSMR require inspection of at least 5% of landings or transshipments in its ports during each reporting year (paragraph 10). The level of inspection must include the monitoring of the entire discharge or transshipment and include a crosscheck between the quantities by species recorded in the AREP and the quantities by species landed or transhipped.

After assessment of the AREP, and taking into consideration externally received information such as previous IUU activities or denial of port use by other countries, a decision will be made on the need and priority for inspection. Fisheries authorities must also decide whether the vessel is allowed port entry exclusively for inspection (and denied port use pending results) or as part of regular procedure (and allowed port use pending results).

When inspection is required prior to granting port use, cooperation between the fisheries authorities' inspection team and port authorities will be needed to ensure that the vessel is denied all port services until the inspection is complete and

where the decision is to permit the use of port.

Where the vessel requests entry into port for *force majeure* or distress and requires port services essential for the safety or health of the crew, or the safety of the vessel,

the port authorities should communicate this to the fisheries authorities and cooperate to verify the genuine nature and seriousness of the situation.



*Figure 19: Purse seiner and carrier vessel in transshipment operation in Port Victoria, Seychelles.*

Situations in which the port State *must* deny the use of port to vessels under specified circumstances (e.g. no flag State or coastal State authorization to fish) were described in section 3.1, above. There is no requirement for an inspection where the criteria are already met, but this does not prevent further inspection should the fisheries authorities so decide. In any case, it is expected that the inspection will not reverse the decision to deny port use.

Vessels *must* deny the use of port after inspection where there are “clear grounds for believing” that IUU fishing or related activities have occurred.

IOTC PSMR The situation could then develop into a more formal investigation with a view to commencing judicial or administrative processes leading to fines, penalties and other sanctions.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

The fisheries authorities must be supported by national legislation that implements the IOTC PSMR and international law and provides the mandate to them to enforce these measures. As indicated above, legislation should also include an offence for assisting or supporting vessels to use the port after denial (addressed by the legislative template referenced in section 2.4).

There also must be clear cooperation between fisheries and port authorities to prevent continued services being granted to the vessel and if necessary with port security services or police to place the vessel under detention or arrest while investigations continue.

### 3.4. Port State actions following an inspection

The inspection of a vessel in port can have two main outcomes depending of the conditions and results of the inspection:

#### Use of port granted

Where the vessel was allowed entry into port exclusively for inspection and the results of inspection did not give clear grounds for believing that

it had engaged in IUU fishing or related activities;

#### Use of port denied

Where the vessel was allowed

→ entry into port exclusively for inspection;

→ unrestricted entry into port,

and the results of the inspection produced *clear grounds for believing* it had engaged in IUU fishing or related activities. The MoU and SOPs between fisheries, port and other relevant authorities need to provide clear guidance on procedures to follow for each outcome. Among others, they should include communications (interagency and externally) information exchange, enforcement, and compliance.

Should the results from an inspection produce some evidence that a vessel has been involved in IUU fishing or related activities, but not enough to provide clear grounds for believing such involvement has occurred further cooperation from the flag State or relevant coastal State(s), other port States or IOTC may be pursued to and obtain the clear grounds needed to deny the vessel further port services and take additional actions in conformity with in-

ternational law, including any measures requested or consented to by the flag State.

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# 4

## Best practice guide to cooperation at regional level

### 4.1.

Analysis of the AREP - Port entry,  
authorization and denial

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### 4.2.

Denial of use of port

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### 4.3.

Port State actions following  
an inspection

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**T**he preamble to IOTC PSMR specifically notes *"the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures."*

At different stages in the implementation of the IOTC PSMR bilateral cooperation between States and cooperation with regional and international organizations are essential (the main contacts are provided in Table 2). Such cooperation should occur at all stages, including:

→ in the process to assess the AREP and decide on port entry (*where coastal and flag States and IOTC or other RFMOs/organizations can provide information*);

→ after port entry and without inspection when conditions in paragraph 9.1 are met indicating IUU activities (*including information from flag and coastal States and other*) and use of port must be denied;

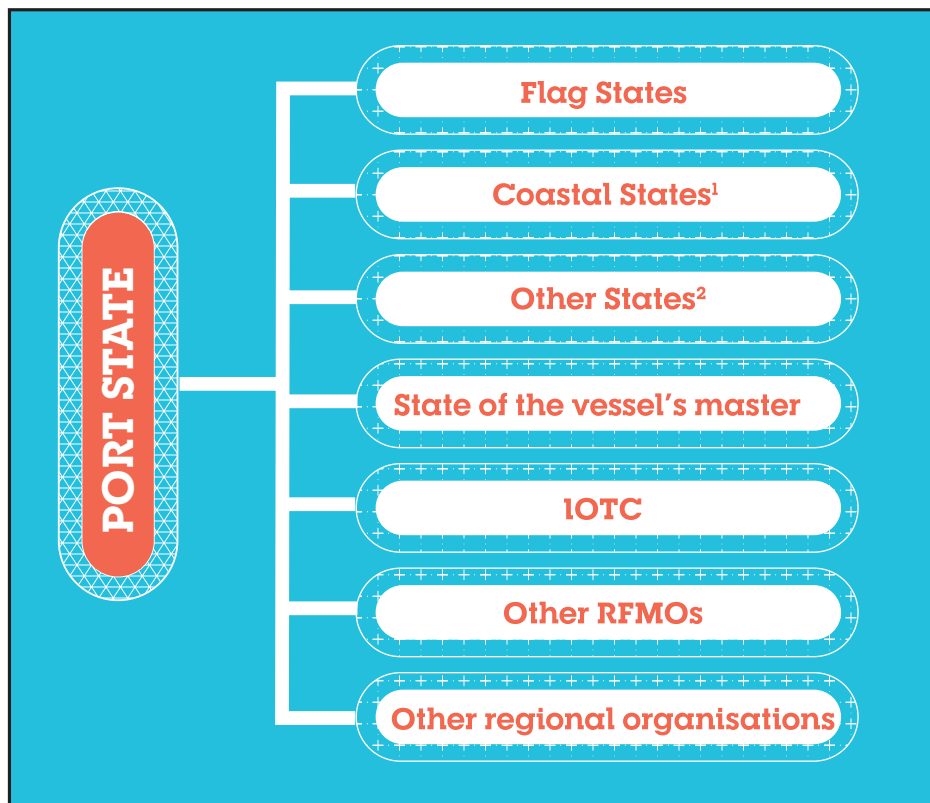
→ arranging and undertaking the inspections (*if the flag State wishes to participate*);

→ action(s) taken following an inspection (*flag State and IOTC/RFMO actions*).

Cooperation may be undertaken with some or all of those identified in Figure 20 and listed in Table 2.

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation



**Figure 20:** Cooperation and communication requirements at regional levels.

1: Coastal State(s) of the Indian Ocean or coastal State(s) of other oceans,

2: Where there is evidence or information that it may have information about the vessel, including countries where the vessel may have engaged in IUU fishing or related activities.



Name of the organisation	Email contact
Tuna RFMOs	
<b>ICCAT</b> - International Commission for the Conservation of Atlantic Tunas	<a href="mailto:info@iccat.int">info@iccat.int</a>
<b>WCPFC</b> - Western and Central Pacific Fisheries Commission	<a href="mailto:wcpfc@wcpfc.int">wcpfc@wcpfc.int</a>
<b>IATTC</b> - Inter-American Tropical Tuna Commission	<a href="mailto:info@iattc.org">info@iattc.org</a>
<b>IOTC</b> - Indian Ocean Tuna Commission	<a href="mailto:iotc-secretariat@fao.org">iotc-secretariat@fao.org</a>
<b>CCSBT</b> - Commission for the Conservation of Southern Bluefin Tuna	<a href="mailto:compliance@ccsbt.org">compliance@ccsbt.org</a>
Other RFMOs/RFBs and International organisations	
<b>SWIOFC</b> - Southwest Indian Ocean Fisheries Commission	<a href="mailto:Secretariat@fao.org">Secretariat@fao.org</a>
<b>RECOFI</b> - Regional Commission for Fisheries	<a href="mailto:haydar.fersoy@fao.org">haydar.fersoy@fao.org</a>
<b>CSRP</b> - Commission Sous-Régionale des Pêches	<a href="mailto:spcsrp@spcsrp.org">spcsrp@spcsrp.org</a>
<b>CECAF</b> - Fishery Committee for the Eastern Central Atlantic	<a href="mailto:fao-ro-africa@fao.org">fao-ro-africa@fao.org</a>
<b>SEAFDEC</b> - Southeast Asian Fisheries Development Center	<a href="mailto:secretariat@seafdec.org">secretariat@seafdec.org</a>
<b>APFIC</b> - Asia-Pacific Fishery Commission	<a href="mailto:fao-rap@fao.org">fao-rap@fao.org</a>
<b>NEAFC</b> - North-East Atlantic Fisheries Commission	<a href="mailto:surveillance@neaftc.org">surveillance@neaftc.org</a>
<b>NAFO</b> - Northwest Atlantic Fisheries Organization	<a href="mailto:info@nafo.int">info@nafo.int</a>
<b>NASCO</b> - North Atlantic Salmon Conservation Organisation	<a href="mailto:hq@nasco.int">hq@nasco.int</a>
<b>SEAFO</b> - South-East Atlantic Fisheries Organisation	<a href="mailto:info@seafo.org">info@seafo.org</a>
<b>SIOFA</b> - South Indian Ocean Fisheries Agreement	<a href="mailto:secretariat@iotc.org">secretariat@iotc.org</a>
<b>SPRFMO</b> - South Pacific Regional Fisheries Management Organisation	<a href="mailto:secretariat@sprfmo.int">secretariat@sprfmo.int</a>
<b>CCAMLR</b> - Convention on Conservation of Antarctic Marine Living Resources	<a href="mailto:ccamlr@ccamlr.org">ccamlr@ccamlr.org</a>
<b>GFCM</b> - General Fisheries Commission for the Mediterranean	<a href="mailto:gfc-secretariat@fao.org">gfc-secretariat@fao.org</a>
International organisations	
<b>ILO</b> - International Labour Organization (UN)	<a href="mailto:ilo@ilo.org">ilo@ilo.org</a>
<b>UNODC</b> - United Nations Office on Drugs and Crime	<a href="mailto:untoc.cop@unodc.org">untoc.cop@unodc.org</a>
<b>IMO</b> - International Maritime Organization	<a href="mailto:info@imo.org">info@imo.org</a>
<b>FAO</b> - Food and Agriculture Organization of the United Nations	<a href="mailto:PSMA-support@fao.org">PSMA-support@fao.org</a>
<b>INTERPOL</b> - International Police Organization	<a href="mailto:environmentalcrime@interpol.int">environmentalcrime@interpol.int</a>

*Table 2: Name and contacts of regional and international organisations.*

## **4.1. Analysis of the AREP - Port entry, authorization and denial**

**T**he regional cooperation necessary for purposes of analysing a vessel AREP and deciding on port State measures is supported by the IOTC e-PSM application; information is available on designated ports, the designated competent authority in each port State CPC and the prior notification period established by each CPC.

The third module of the application, e-PSM reporting, is a report-building tool where reports related to the activities of foreign vessels in its port or activities of its flagged vessels in foreign ports can be generated. This module allows CPCs to generate the mandatory report required by Resolution 05/03 (details of landing of foreign vessels in ports), as well as the mandatory report required by Resolution 19/06 (details of transshipments of flag vessels in foreign ports).

### **IOTC PSMR**

Importantly, a component of the e-PSM application contains tool that provides regional-based information to assist analysis of the AREP: the Risk Assessment Report (RAR). It is available as a reporting feature to

inform the user about a potential issue called a “warning” regarding a vessel and its owner.

The VAIR is an intelligence report dedicated to a vessel and based on different sources of information to assist the port State in vessel risk assessment assigning a high, medium/low risk profile to a vessel. Among other things, it provides information on IUU listings and poor compliance with IOTC resolutions).

The purpose of the RAR is to compare the vessel’s declaration versus information in database(s), to flag any IUU listing, to offer a review of activity history (e.g. AREP, port calls, flag, and owner) and list any relevant third party information.

It is automatically generated when: a new Vessel File is created for a vessel; an AREP is received; or a Vessel File is created without an AREP.

It is a snapshot of the vessel’s situation at the moment of the creation of the Vessel File and is not updated during the life of the Vessel File. It is a tool to help decision making when reviewing an AREP to decide to grant entry to a vessel or to deny it or deciding whether to conduct a Port Inspection focusing on the issues detected in the RAR.

Specific criteria are evaluated to produce the RAR, sorted in three “levels” according to their importance/seriousness.

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However, the RAR does not indicate whether a vessel is currently infringing any regulation or IOTC Resolution. It is a tool to highlight possible issues regarding a vessel, which should require attention by the port State when considering whether or not to grant access to its port to a vessel following an AREP and, if access is granted, whether or not to conduct a port inspection or monitor the vessel's offloading activities.

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Where fisheries authorities deny port entry or access based on the information in the e-PSM application, the information should be shared with other relevant agencies including port authorities and enforcement agencies.

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## RECOMMENDATIONS FOR REGIONAL COOPERATION

Establish networks for regional and international communication to facilitate cooperation and exchange of information at different stages in the implementation of the IOTC PSMR that includes:

→ **REGIONAL ORGANISATIONS:**

- IOTC CPC flag States and coastal States;
- IOTC Secretariat; and
- Secretariats of other RFMOs.

→ **INTERNATIONAL ORGANISATIONS:**

- UN Food and Agriculture Organization (FAO);
- UN International Maritime Organisation (IMO);
- UN International Labour Organization (ILO);
- UN Office on Drugs and Crime (UNODC); and
- International Criminal Police Organization (INTERPOL).

**T**he exchange of information and cooperation by the port State with the flag State, relevant coastal States and RFMOs may be needed to verify information provided in the AREP and e-PSM application. In addition, in order for a port State to make a final decision on port entry within a prescribed time rapid responses are needed from the relevant States and

RFMOs to verify specific information submitted in the prescribed fields of the AREP that may include, *inter alia*:

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- VMS information on the vessel's real time movements;
- status of the vessel on the IOTC lists of authorised and IUU vessels;

→ relevant authorisation(s) for fishing or related activities from flag State;

→ relevant authorisations or licences for fishing or related activities from coastal States;

→ relevant transshipment authorisation(s);

→ transshipment information concerning donor vessels;

→ catch documentation scheme.

It is important to note that the same level of cooperation and information exchange should be expected during the inspection in port when no AREP has been submitted and the vessel is already in port.

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## ***Vessel Monitoring System***

The port State can request from the flag State or relevant coastal State VMS information to verify information on the areas fished by the vessel in the period from its last port call. This information may be used to cross-reference with the ATF conditions, or verify if the vessel has fished in a closed area or in the exclusive economic zone of a coastal State for which it does not have a valid fishing license.

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## ***Status in IOTC, including IUU vessel listing***

The analysis process of an AREP will require verification of the vessel's details in the e-PSM application and on the IOTC record of authorised vessels. Where there are discrepancies in the vessel's details (e.g. identifier, characteristics, information on owner and operator, authorised period), or if a vessel does not appear on the IOTC Record of Authorised Vessels then the port State should request from the IOTC Secretariat confirmation that the vessel is either not on the list or that there is a misunderstanding of the name or details provided on the AREP. This verification process may also require cooperation from the flag State.

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Where vessels have indicated they have been operating in the Area of Competence of another RFMO the port State can request cooperation from the relevant RFMO to provide confirmation of registration on the authorised vessels list of the RFMO.

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## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

The internet addresses of record of authorised vessels and the contacts of tuna RFMOs are provided in Table 3, below.

Name of the organisation	Internet link
<b>ICCAT</b> - International Commission for the Conservation of Atlantic Tunas	<a href="https://www.iccat.int/en/VesselsRecord.asp">https://www.iccat.int/en/VesselsRecord.asp</a> Email: <a href="mailto:info@iccat.int">info@iccat.int</a>
<b>WCPFC</b> - Western and Central Pacific Fisheries Commission	<a href="http://www.wcpfc.int/vessels">http://www.wcpfc.int/vessels</a> Email: <a href="mailto:wcpfc@wcpfc.int">wcpfc@wcpfc.int</a>
<b>IATTC</b> - Inter-American Tropical Tuna Commission	<a href="http://www.iattc.org/VesselDataBaseENG.htm">http://www.iattc.org/VesselDataBaseENG.htm</a> Email: <a href="mailto:info@iattc.org">info@iattc.org</a>
<b>IOTC</b> - Indian Ocean Tuna Commission	<a href="http://www.iotc.org/vessels">http://www.iotc.org/vessels</a> Email: <a href="mailto:authorised.vessels@iotc.org">authorised.vessels@iotc.org</a>
<b>CCSBT</b> - Commission for the Conservation of Southern Bluefin Tuna	<a href="http://www.ccsbt.org/site/authorised_vessels_and_farms.php">http://www.ccsbt.org/site/authorised_vessels_and_farms.php</a> Email: <a href="mailto:compliance@ccsbt.org">compliance@ccsbt.org</a>

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**Table 3:** Internet addresses & contacts of record of authorised vessels of tuna RFMOs

The internet addresses for IUU Vessel Lists of some RFMOs are provided in Table 4, below.

Name of the organisation	Internet link
NEAFC - North-East Atlantic Fisheries Commission	<a href="http://www.neafc.org/mcs/iuu/blist">http://www.neafc.org/mcs/iuu/blist</a>
NAFO - Northwest Atlantic Fisheries Organization	<a href="http://www.nafo.int/fisheries/fishery/iuu/list.html">http://www.nafo.int/fisheries/fishery/iuu/list.html</a>
SEAFO - South-East Atlantic Fisheries Organisation	<a href="http://www.seafo.org/Management/IUU">http://www.seafo.org/Management/IUU</a>
SPRFMO - South Pacific Regional Fisheries Management Organisation	<a href="https://www.sprfmo.int/conservation-measures/iuu-lists/#SPRFMO">https://www.sprfmo.int/conservation-measures/iuu-lists/#SPRFMO</a>
CCAMLR - Convention on Conservation of Antarctic Marine Living Resources	<a href="http://www.ccamlr.org/en/compliance/illegal-unreported-and-unregulated-iuu-fishing">http://www.ccamlr.org/en/compliance/illegal-unreported-and-unregulated-iuu-fishing</a>
ICCAT - International Commission for the Conservation of Atlantic Tunas	<a href="http://www.iccat.int/en/IUU.asp">http://www.iccat.int/en/IUU.asp</a>
WCPFC - Western and Central Pacific Fisheries Commission	<a href="http://www.neafc.org/mcs/iuu/blist">http://www.neafc.org/mcs/iuu/blist</a>
IATTC - Inter-American Tropical Tuna Commission	<a href="https://www.iattp.org//VesselRegister/IUU.aspx?Lang=en">https://www.iattp.org//VesselRegister/IUU.aspx?Lang=en</a>
IOTC - Indian Ocean Tuna Commission	<a href="http://www.iotc.org/vessels">http://www.iotc.org/vessels</a>
CCSBT - Commission for the Conservation of Southern Bluefin Tuna	<a href="http://www.ccsbt.org">www.ccsbt.org</a>

*Table 4: Internet addresses of IUU vessel lists of some RFMOs*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### Relevant documents and authorisation(s), flag State

The port State can request the flag State's cooperation to provide copies of and additional information on the vessel's:

- registration and safety certificates (to verify authenticity and information, e.g. names of owners and operators);
- authorisation(s) for fishing or related activities in areas indicated on the AREP or other areas as appropriate, e.g. areas of IOTC or other RFMO.

The flag State's authorisations for fishing or related activities that are submitted by the vessel requesting entry into port can be verified by comparison with relevant templates, information from the competent issuing authority, and signature and stamps used on the authorisation.,

Concerning transshipment at sea, the port State can request the flag State of a vessel verification of its authorisation to tranship fish within the relevant RFMO area, which includes details of the names and RFMO identification numbers and validity of the authorisation(s). Copies of transshipment declaration detailing the quantities and species of fish for

each transshipment can also be requested.

Relevant Information is available to CPCs on a secure page of the IOTC web site at <http://www.iotc.org/compliance/authorizations-templates-samples>

*(Credentials can be obtained by contacting the IOTC Secretariat; [secretariat@iotc.org](mailto:secretariat@iotc.org)).*

### Relevant documents and authorisation(s), coastal States

Where vessels have indicated they have been operating within the national jurisdiction of a coastal State, the port State can request cooperation from the coastal State to provide a copy of the license and/or authorisation it issued for fishing or related activities to verify that the vessels operated in accordance with the required conditions.

A coastal State license or authorisation presented by the vessel requesting entry into port can be verified against the templates of coastal State license/authorisation, competent authority issuing the license, signature and stamps used on the



license, such information is available to CPCs on a secure page of the IOTC web site at <http://www.iotc.org/compliance/authorizations-templates-samples>

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*(Credentials can be obtained by contacting the IOTC Secretariat; [secretariat@iotc.org](mailto:secretariat@iotc.org)).*

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### ***Transshipment information concerning donor vessels***

The port State CPCs to verify transshipment authorisations provided to their flag vessels to tranship fish at sea to another vessel. Copies of the transshipment declaration may also be requested from the flag States of the donor vessels and where relevant the Secretariat of the relevant RFMO in whose waters transshipments took place.

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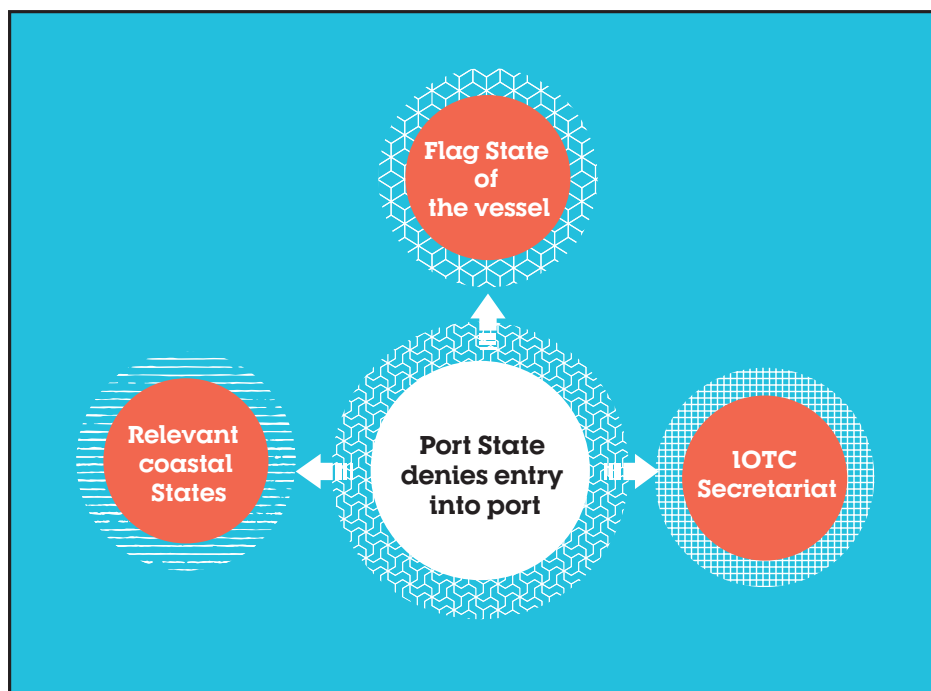
## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### 4.2. Denial of use of port

**W**hen a vessel is denied entry into port, the port State is required to communicate this decision to relevant flag States, coastal States and the IOTC Secretariat (Figure 21).

*Note: The IOTC Secretariat may communicate this decision to Secretariats of other RFMOs to combat IUU fishing at a global level.*



**Figure 21:** Regional communication requirements when a vessel is denied entry into port (IOTC PSMR, paragraph 7.3)

## Denial of use of port

Where a CPC has denied the use of its port after entry but without necessarily inspecting if specific criteria have been met (paragraph 9.1), it must promptly notify the flag State and, as appropriate, relevant coastal States, IOTC or other RFMOs and other relevant international organisations of its decision, as shown in Figure 22.

However, where use of port has been denied after an inspection has revealed clear grounds to believe that the vessel has been involved in IUU fishing or related activities (paragraph 15(1)(a)), the CPC must also notify the State of which the vessel's master is a national of its findings, as explained below and shown in Figure 24.

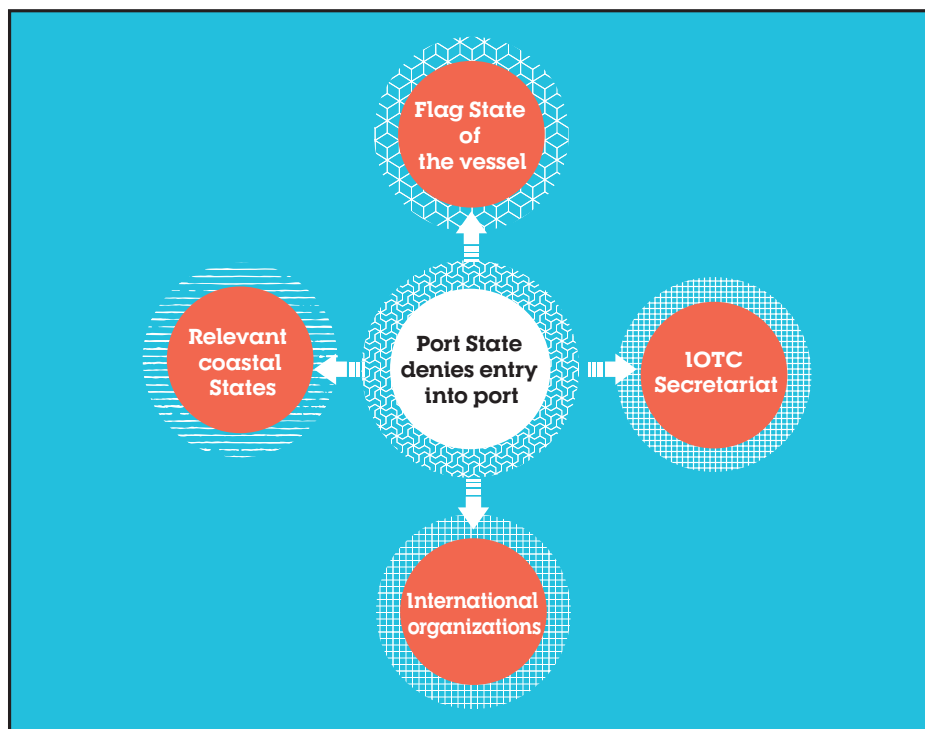
*Note: International organizations could include United Nations agencies (e.g. FAO, UNODC, IMO, ILO), other tuna RFMOs, Interpol or Regional economic integration organisations (IOC, SADC, ASEAN, IGAD), where appropriate.*

## Withdrawal of denial of use of port

Where a CPC has withdrawn its denial of use of port, it must promptly notify those to whom a notification was issued (Figure 22).

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation



*Figure 22: Regional communication requirements when a vessel is denied use of port based on specified criteria, no inspection necessary.*

### 4.3. Port State actions following an inspection

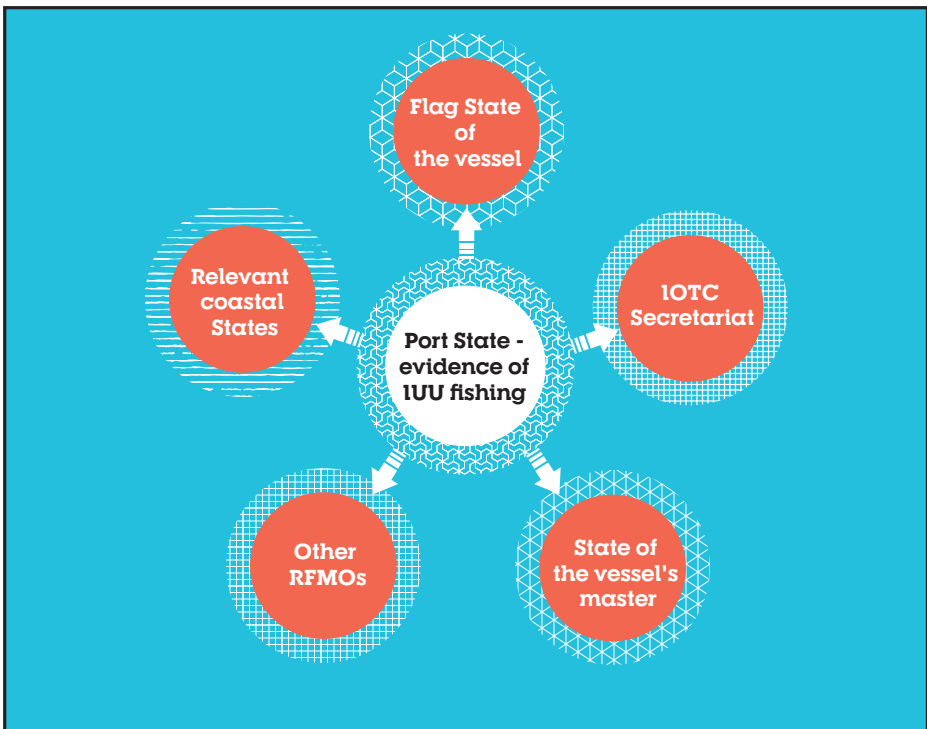
**S**hould the results from an inspection produce clear grounds to believe that a vessel has been involved in IUU fishing or related activities, the port State may deny use of port.

However, where the results produce evidence that is insufficient to meet the "clear grounds to believe" standard of proof, cooperation with the flag State, relevant coastal State(s), RFMOs and others may be pursued to verify the available evidence and obtain the standard of proof to deny

the vessel use of port and take any additional actions under paragraph 15 of IOTC PSMR.

promptly notify its findings to the following and deny port use:

As noted above, following an inspection and where there are clear grounds for believing that a vessel has engaged in IUU fishing, the inspecting CPC (port State) must



**Figure 23:** Regional communication requirements when there are clear grounds to believe that a vessel has engaged in IUU fishing or related activity and port use is denied.

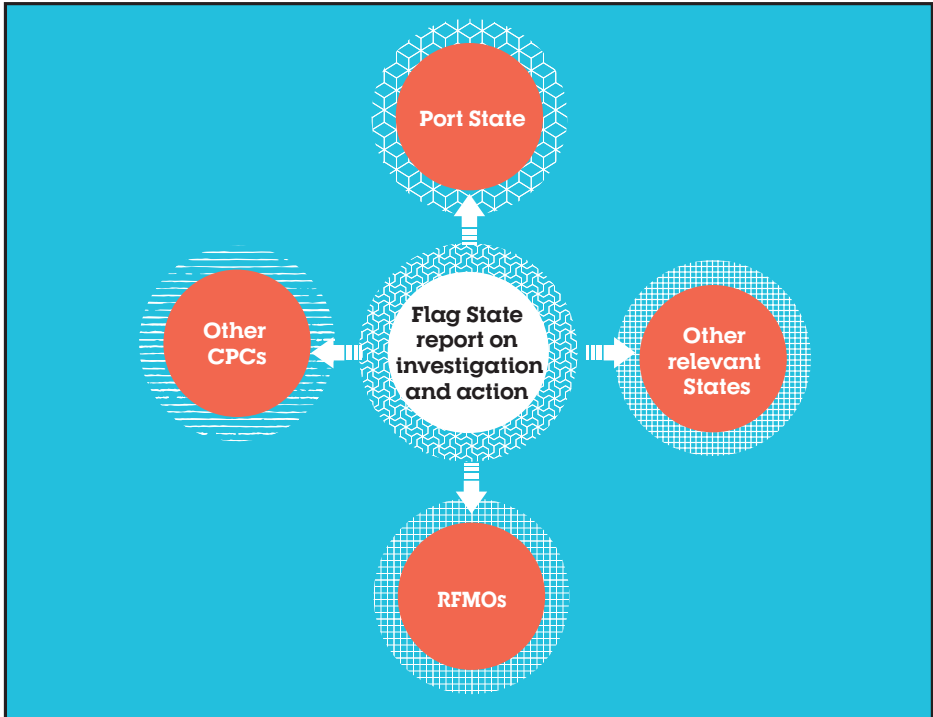
## **4.4 Flag State actions following an inspection**

**F**ollowing a port State inspection, where a flag State CPC receives an inspection report indicating that there were clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or related activities, it must immediately and fully investigate the matter and, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

The flag State must report the results of the investigation and the actions it has taken in respect of its vessels that have been determined to have engaged in IUU fishing or related activities to CPCs, relevant port States and, as appropriate, other relevant States, regional fisheries management organisations and FAO.

However, considering the nature of the recipients, the best practice should be for the port State to request that IOTC circulates to CPCs (a) the notification given to the flag State of the evidence of IUU fishing or related activities and the flag State's responsibility to investigate, and (b) the subsequent investigation report of the flag State and action(s) taken.

A summary of notification, communication and information requirements for port states and flag states is provided in Annex 3.



*Figure 24: Flag State communication requirements following a flag State investigation and action pursuant to a port State inspection report*

# 5

## Conclusion

**T**he effective implementation of port State measures to combat IUU fishing - and related activities in support of such fishing - depends on CPCs establishing an environment conducive to coordination and cooperation among responsible national agencies and with regional and international organizations at all stages of implementing IOTC PSMR.

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These processes will only be achieved through support from a senior level within the CPC to set up mechanisms for coordination, review the legal mandates of the relevant agencies and ensure a coordinated approach to regional and international measures, actions and relations.

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# ANNEX 1

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

### **COOPERATION IN IMPLEMENTING PORT STATE MEASURES AT NATIONAL INTERAGENCY LEVEL, AND AT BILATERAL AND REGIONAL LEVEL**

This Annex provides a summary of responsibilities, areas of cooperation and relevant focal areas for the implementation of IOTC PSMR on port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing. Part 1 addresses national interagency considerations and Part 2 describes the bilateral/regional level.

#### **PART 1: NATIONAL AUTHORITIES**

NATIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
Cooperation at National Level			
National Government.	Overall responsibility as IOTC CPC for implementation of and compliance with IOTC PSMR, including responsibility for passing implementing legislation.		Implementation of the IOTC PSMR.
Foreign affairs.	International relations.	Provide guidance in and diplomatic support for international cooperation and relations, based on regional and international law and obligations (including obligations as port and flag State).	Implementation of the IOTC PSMR.

NATIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
Fisheries Authority .	Overall responsibility for all national fisheries.	<p>Interact with government, including other government authorities, on national and international responsibilities in applying the resolution.</p> <p>Cooperate with all relevant regional and international organisations in the implementation of the resolution.</p> <p>Facilitate in convening an inter-agency committee and authorising development of MOUs and SOPs.</p> <p>Establish a communications and information center, including for use of the e-PSM application.</p>	Implementation of the IOTC PSMR.
Senior Port Authorities.	Overall responsibility for all port operations on national level.	<p>Interact with government, including the fisheries authority, in coordinating national and international responsibly under the resolution.</p> <p>Facilitate in convening an inter-agency committee and authorising development of MOUs and SOPs.</p>	Implementation of the IOTC PSMR.
Port Manager / Port Control.	<p>Responsible for managing and governing port operations.</p> <p>Control of vessels entering port.</p>	Cooperate with relevant fisheries authorities to apply decisions made on entry and inspection in accordance with the analysis of the AREP.	<p>Cooperate in assessing AREP.</p> <p>Port entry</p> <p>Vessel inspection.</p>

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

NATIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
Customs and Immigration.	Customs responsible for regulating import and export of products. Immigration responsible for clearing vessel and crew after the vessel enters port.	Cooperate with fisheries authority in information exchange and inspection of vessels.	Vessel inspection.
Port security / Border police / State security authority.	Responsible for securing ports in accordance with international shipping and port facilities Can investigate vessel for possible crimes and secures vessel if arrested.	Cooperate with fisheries authority for information exchange and with inspection to secure a vessel suspected of IUU fishing	Cooperate in assessing AREP. Vessel inspection. Follow-up actions.
Attorney general.	Prosecution of vessel, seizure, law reform.	Advise on legal matters for arrest and seizure of vessel and initiating legal or administrative processes under national law where cause exists (before or following inspection). Advise on matters of national legal reform to implement all aspects of the PSMR.	Implementation of IOTC PSMR in national legislation.  Advise on legal aspects of proceedings including detention, seizure, arrest. Advise on follow-up legal or administrative actions.

NATIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
Port health.	Responsibility for inspection of vessel and crew for infectious diseases and providing Maritime Declaration of Health. Vessels are checked for rodents and sanitation conditions. Water and food supplies to vessels are monitored.	Cooperate with information exchange and inspection of vessels. Advise on health where a vessel claims <i>force majeure</i> or distress.	Vessel inspection.
Veterinary services.	Veterinary officer responsible monitoring and possible quarantine of all fish products. Board and inspect and can place a vessel under surveillance.	Cooperation for information exchange and inspection of products. Advise on quarantine requirements.	Vessel inspection.
Labour.	Monitor crew exchange and can investigate any reports on labour abuses and possible human trafficking and slavery.	Cooperate with customs and immigration and fisheries authorities regarding crew during inspection to investigate human trafficking.	Vessel inspection.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

NATIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
Vessel agents.	Serve as intermediary. Primary link between vessels and all authorities for foreign vessels entering port. Facilitate with permits and clearing of products and arranging port services.	Cooperate with fisheries authorities and other national agencies in preparation of documents and obtaining relevant permits and permissions and coordinating port services.	Provide information for AREP. Submit vessel authorisation to enter port. Facilitate vessel inspection.

## PART 2: BILATERAL AND REGIONAL AUTHORITIES

INTERNATIONAL AND REGIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
International and Regional Cooperation			
Flag State.	Responsible for their flag vessels authorisation and operations in accordance with Part 5 of the IOTC PSMR	Cooperate with port State fisheries authorities by: providing information requested on their vessels in the analysis of the AREP; responding promptly to the port State request to confirm that the fish was taken legally; requesting port State to inspect; participating in and assisting with inspection of their vessels while in the port of a port State.	Provide information for AREP. Vessel inspection. Follow-up.
Coastal States.	Responsible for licensing or authorising and monitoring foreign vessels for fishing and related activities in areas under their jurisdiction.	Cooperate with port State requests for information on licences and authorisations provided to foreign vessels for fishing or related activities within waters under their jurisdiction, and on any other information concerning possible IUU fishing or related activities.	Provide information for: AREP assessment; vessel inspection; follow-up.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

INTERNATIONAL AND REGIONAL AUTHORITIES	PRIMARY RESPONSIBILITY AND FUNCTIONS	COOPERATION	IMPLEMENTATION OF THE RESOLUTION
IOTC Secretariat.	<p>In accordance with Part 5 of the Resolution, responsible for:</p> <p>posting on the IOTC website: relevant public information; copies of port inspection reports (on the secure part of the website); forms related to a specific landing or transshipment, which must be posted together.</p> <p>transmitting inspection reports to relevant RFMOs.</p> <p>Conduct training on the implementation of PSM.</p> <p>Operate the e-PSM application.</p>	Facilitate identification of IUU fishing activities, and communication and cooperation among CPCs and other RFMOs.	Information and communications, including e-PSM. Training.
RFMOs.	<p>Responsible for the management of the fisheries within their area of competence.</p> <p>Maintain records of vessels that are authorised for fishing or related activities, or that have engaged in IUU fishing or related activities, within their area of competence.</p>	<p>Cooperate with flag States, port States and other RFMOs in providing information relating to vessels, including their operators and masters...</p> <p>Post IUU-related information on RFMO combined lists of IUU vessels, e.g. at <a href="https://iuu-vessels.org/">https://iuu-vessels.org/</a></p>	Provide information for: AREP assessment; vessel inspection; follow-up.



# ANNEX 2

## ANNEX 2

### MODEL

#### MEMORANDUM OF UNDERSTANDING

ON INTERAGENCY COOPERATION AND COORDINATION FOR EFFECTIVE  
PORT STATE MEASURES IN RELATION TO FISHING AND FISHING RELATED  
ACTIVITIES

BETWEEN THE

[FISHERIES AGENCY]

AND

[APPLICABLE AGENCIES RESPONSIBLE FOR PORTS, MARITIME TRANSPORT,  
CUSTOMS, IMMIGRATION, HEALTH/SANITARY, VETERINARY, LABOUR, PO-  
LICE, COAST GUARD, NAVY, ATTORNEY GENERAL, FOREIGN AFFAIRS]

Note: This is a template which may be tailored to the language and circumstances used in each country. For this reason, indicative language which may be amended is shown in *[square brackets]* and indicative content in *italics*.

## **1. PURPOSE AND OBJECTIVE**

**1.1.** The purpose of this inter-agency Memorandum of Understanding (MOU) is to strengthen the working relationships between the [Fisheries Agency] and [applicable agencies responsible for Ports, Maritime Transport, Customs, Immigration, Health/Sanitary, Veterinary, Labour, Police, Coast Guard, Navy, Attorney General, Foreign Affairs] in relation to exercising effective port State measures over foreign fishing vessels that call into the port[s] of [country].

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**1.2** The objective of this MOU is to strengthen the combined efforts of the agencies to effectively implement national laws and international obligations of [country] that address illegal, unreported and unregulated (IUU) fishing and fishing related activities, with a view to ensuring the long-term conservation and sustainable use of living marine resources and marine ecosystems.

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**1.3** Underlying the purpose and objective of this MOU is the recognition by agencies that:

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- a.** port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating IUU fishing and fishing related activities;
- b.** vessels involved in IUU fishing and fishing related activities may also be involved in other national or transnational criminal activities; and
- c.** integration of port State measures into the broader system of port controls at national, regional and international levels is essential to achieve maximum efficiency and effectiveness in addressing all such activities.

**1.4** This MOU establishes a process and framework for notification, consultation and coordination among agencies in the procedures, actions and measures to be taken in relation to vessels seeking entry or in port and requirements for information, inspection and enforcement.

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## 2. BACKGROUND

### 2.1 Port State Measures

**2.1.1** This MOU provides a foundation for cooperation and coordination in the implementation of, *inter alia*, the legally binding Resolution 16/11 of the Indian Ocean Tuna Commission on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing ("IOTC Resolution"). It establishes a framework for procedures, actions and measures in relation to vessels seeking entry into port or in port and incorporates requirements of the IOTC Resolution, including the following definitions:

- a. "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;
- b. "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;

- c. "port" includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- d. "use of port" includes landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking, and
- e. "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.

**2.1.2** The vessels which are subject to port State measures, as described in the IOTC Resolution, include those that are not entitled to fly the flag of [country] that are seeking entry to its ports or are in one of its ports, with some stated exceptions relating to artisanal vessels of neighbouring States and container vessels not carrying fish or carrying previously landed fish providing there are no clear grounds for suspecting the vessels have engaged in fishing related activities that support IUU fishing.

**2.1.3** The IOTC Resolution requires integration and coordination at the national level. To this end, [country] is required, to the greatest extent possible, to:

- 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 the IOTC Resolution.

**2.1.4** This MOU aims to facilitate such integration and coordination among agencies, integrate port State measures with other measures to combat IUU fishing and provide a platform for exchanging information and coordinating activities of all relevant national agencies in the implementation of the IOTC Resolution.

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## 2.2 General mandates of agencies

**2.2.1** The [ Fisheries Agency] has the statutory responsibility for the conservation and management of fish in areas under national jurisdiction, and for ensuring the implementation of binding IOTC Resolutions which may apply to all areas in which IOTC has competence. Its responsibilities include the collection, maintenance, exchange and dissemination of fisheries-related data and information, liaison with regional fisheries bodies, including IOTC, and other countries on fisheries matters and the monitoring, control and surveillance of fisheries and related activities, including inspection and enforcement. As such, this MOU acknowledges the lead authority and responsibility of the [Fisheries Agency] to facilitate implementation of the port State measures described in the IOTC Resolution and this MOU.

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**2.2.2** The general mandates of other agencies, as they relate to this MOU, are as follows: *(to be completed as appropriate, some suggestions are given in italics. Relevant laws establishing the agencies may be quoted)*

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- a. Port Authority *(e.g. receive requests to enter port, control entry*

## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

*into port, facilitate inspections, allow/deny use of port services)*

- b.** Maritime Transport (*e.g. receive reports from and inspect vessels used for fishing related activities, including carrier and supply vessels, inspect vessels to ensure certain maritime standards are met - e.g. pollution, labour and safety and as necessary detain vessels*)
- c.** Customs (*e.g. inspect and provide customs clearance as appropriate for fish, fish products and other items to be landed or transhipped in port*)
- d.** Immigration (*e.g. inspect identification documents showing nationality of master and crew, and ensure validity of documentation*)
- e.** Health/Sanitary and Veterinary (*e.g. inspect fish and fish products to ensure compliance with relevant national standards, laws and regulations*)
- f.** Labour (*e.g. inspect and investigate to ensure that relevant national and international standards for labour on board the vessels are being met*)
- g.** Police, Coast Guard, Navy (*e.g. investigate and enforce national laws in accordance with respective mandates, enforce denial of use of port*)

**h.** Attorney General (*e.g. ensure national laws are adequate to implement the IOTC Resolution, review outcomes of investigations and support legal or administrative proceedings in cases of suspected non-compliance or violations.*)

**i.** Foreign Affairs (*e.g. take necessary action pursuant to applicable international and national law and policy, including with flag States, other coastal and port States, IOTC CPCs and relevant regional and international organizations*)

**2.2.3** Nothing in this Agreement is intended to diminish or otherwise affect the authority of any agency to implement its respective statutory mandate.

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## 3. COOPERATION, COORDINATION AND INTEGRATION OF PORT STATE MEASURES

### 3.1. Cooperation and Coordination

**3.1.1.** Agencies shall exercise the fullest possible cooperation and coordination among themselves, at all organizational levels and in particu-

lar among focal contact points to be agreed pursuant to paragraph xx, in developing procedures for notifications and data and information requirements and exchange, verifying information as appropriate, maintaining databases, ensuring effective vessel inspection and enforcement and liaising with flag States, other coastal and port States, IOTC CPCs and relevant regional and international organizations and facilitating training for inspectors.

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**3.1.2.** The [*Fisheries Agency*] shall facilitate a process to develop inter-agency procedures to cooperate and coordinate efforts at all relevant times to carry out the purpose and objective of this MOU, including:

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- a. requiring relevant advance information from a vessel requesting entry into port;
- b. receiving and exchanging such information promptly;
- c. liaising as appropriate with organizations, States or other contacts outside [*country*];
- d. deciding whether to allow port entry, and if so whether it is conditional;
- e. deciding whether to refuse use of port after entry into port but prior to inspection;

- f. identifying which vessels to inspect;
- g. carrying out inspections;
- h. reporting on inspections;
- i. deciding whether to refuse use of port after inspection and communicating the decision;
- j. enforcing refusal of use of port;
- k. deciding whether to take other measures;
- l. transmittal of inspection reports and communication of any measures taken;
- m. taking legal or administrative action, and communicating the decision to take such action; and
- n. establishing and maintaining a database to record and facilitate the above actions.

**3.1.3.** The procedures to be developed pursuant to paragraphs 3.1.1 and 3.1.2 shall take into account relevant national laws and procedures and aim to address any existing gaps, and shall integrate information and communications in the IOTC e-PSM application and take into account requirements for information and communications in the IOTC Resolution. The respective agencies agree to take steps to further strengthen existing laws and procedures as appropriate.

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## Port State Measures

Guidelines on best practices for interagency cooperation at national level and regional cooperation

3.1.4. To facilitate the understanding of the profile of IUU fishing and the obligations under the IOTC Resolution on port State measures and other IOTC Resolutions legally binding upon [country] and to support the development of relevant procedures, the [Fisheries Agency] shall provide the other agencies with all necessary background information.

3.1.5. The agencies agree to cooperate fully in the development of the procedures, which should be finalized by [January 1, 20\*\*], and to implement them upon their approval.

3.1.6. The agencies agree to fully implement any decision made in accordance with the agreed procedures, and until such procedures are in place to cooperate fully to implement decisions and directions by the [Fisheries Agency] that are taken to implement the IOTC Resolution.

3.1.7. By [January 1, 20\*\*] and at the beginning of each succeeding fiscal year, the agencies will develop an annual work plan to identify and define the priorities to be addressed during the year. The workplan will include, *inter alia*:

a. a report of port State measures taken in the previous year, including successes, constraints and solutions to constraints; and

b. a plan for strengthening cooperation and coordination to implement port State measures in the ensuing year, including identification of specific procedures, training and information exchange, including:

i. risk management;

ii. relevant laws and procedures, and their adequacy to achieve the purpose and objectives of this MOU;

iii. operations and compliance;

iv. intelligence and information sharing;

v. funding;

vi. information and communications technology;

vii. human capacity development;

viii. joint communications; and

ix. international relations.

3.1.8. The [Senior manager] of the [Fisheries Agency] shall coordinate interagency meetings to develop and review procedures and the implementation of the work plan agreed pursuant to this MOU and address matters of general cooperation and coordination. Meetings shall be held at least [monthly] and each agency agrees to attend at the most senior level possible.



**3.1.9.** Each agency agrees to designate a focal contact for carrying out interface activities, with responsibilities that include ensuring and facilitating prompt and effective communication, decision making, cooperation and coordination in taking actions and measures and reporting on outcomes in order to aid the control and enforcement process.

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**3.1.10.** Each agency agrees to prepare and distribute to all relevant personnel a suitable directive concerning the effective implementation of this MOU. The agencies will update this information as the need arises and will ensure that relevant managers and personnel are provided with a copy of this MOU and the applicable directive.

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**3.1.11.** All information shall be kept up to date by all agencies.

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**3.1.12.** Resolution of interagency policy issues concerning this MOU and specific areas of implementation will be coordinated by the [Office of the Cabinet]. Resolution of issues concerning inspection and enforcement activity involving the mandate of any agency jurisdiction will be coordinated by [the Attorney General].

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## 3.2. Information and data exchange

**3.2.1.** The agencies agree to promptly exchange all data and information falling within the purpose and objective of this MOU, including that relating to vessels (including *inter alia* their requests for and authorization of entry into port, duration of port call, proof of IUU fishing or related activities and all other information), planned inspections, results of inspections, reasonable grounds to believe non-compliance with IOTC Resolutions or national laws, denial of port use, legal or administrative action and all other information necessary to ensure effective and coordinated law enforcement.

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**3.2.2.** The agencies agree to integrate relevant data and information falling within the purpose and objective of this MOU into existing databases or registers of information as appropriate, to fully utilise and exchange all relevant data and information based on the IOTC e-PSM application and to provide for interagency access to such databases.

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**3.2.3.** This MOU contemplates data exchange through both hard copy and computer data bases, in accordance with procedures to be established in accordance with paragraph 3.1.2.

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### 3.3. Inspections

**3.3.1.** The agencies may conduct joint inspections as necessary in accordance with their mandates and the purpose and objective of this MOU. Such inspections may be in accordance with an annual work plan which is developed in accordance with paragraph 3.1.6, priorities agreed at [monthly] meetings held in accordance with paragraph 3.1.7 and/or scheduled on an *ad hoc* basis.

**3.3.2.** Where inspectors, in the course of conducting separate inspections, discover situations involving potential violations of the other agency's laws or regulations, or non-compliance with IOTC Resolutions, referrals to the appropriate office will be undertaken as described below.

### 3.4. Referrals

**3.4.1.** For law enforcement purposes, the agencies agree to identify a system to track and manage referrals of proof or reasonable belief that IUU fishing or related activities in support of such fishing have occurred, potential violations of national laws or IOTC Resolutions, allegations of violations, or situations requiring inspection, evaluation or follow up, as appropriate.

### 3.5. Training

**3.5.1.** The agencies agree to support joint inspection and enforcement initiatives by cooperating in the development and conduct of periodic training programs for each other's personnel in the respective laws, regulations, and compliance requirements of each agency, as appropriate, to ensure that valid referrals are made when proof or reasonable belief that IUU fishing or related activities in support of such fishing have occurred or potential violations are found.

**3.5.2.** This MOU contemplates exchanges of appropriate training materials and information and development of specialized training activities in accordance with procedures that may be established separately.

### 3.6. Financial arrangements

**3.6.1.** Except where otherwise provided in this MOU or agreed separately, each agency shall bear its own costs of fulfilling its commitments pursuant to this MOU.

## **4. ENTRY INTO FORCE, AMENDMENT, PERIOD OF VALIDITY**

### **4.1. Entry into force**

**4.1.1.** This MOU enters into force upon signature of all parties. Until such time as all parties have signed, each agency shall ensure provisional implementation in the spirit of cooperation and coordination.

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### **4.2. Amendment**

**4.2.1.** This MOU may be amended in writing by the consent of all parties.

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### **4.3. Period of validity**

**4.3.1.** This MOU shall continue in effect unless modified in writing by mutual consent of both parties or terminated by either party upon 30 days advance written notice to the other.

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# ANNEX 3

## ASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

### INFORMATION NOTIFICATION, COMMUNICATION AND TRANSMISSION REQUIREMENTS

RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Part 1 Use of e-PSM Section 3.2.	Each CPC may utilise the e-PSM system, and shall encourage all stakeholders (vessel representatives, port States and flag States) to utilise, to the greatest extent possible, the e-PSM application to comply with this Resolution.  Further consideration to be given to making the use of the application mandatory.	As required in Resolution 16/11.	As defined in the e-PSM application.
Part 1 Integration and coordination at the national level. Section 4 (c).	In the implementation of Resolution 16/11 CPCs are expected to exchange all information necessary at a national level to coordinate activities,	Fisheries Authorities Port Authority Relevant agencies associated with port activities, <i>inter alia</i> : → Customs → Immigration → State health authorities → Harbour police → Navy/CoastGuard → Foreign Affairs → Attorney General → Wildlife Services	Information requiring verification or requests for follow-up action to implement the Resolution.
Part 2 Designation of ports Section 5.1.	CPC to provide a list of designated ports to which foreign vessels may request entry, and publicize the list.	IOTC Secretariat. General Public	IOTC Secretariat to publicise the designated ports on its website.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Part 2 Advance request for port entry Sections 6.1, 6.2. & Annex 1.	Information in Annex 1 to be provided in advance by foreign vessels (equipped for fishing or related activities) requesting port entry, in the form of an AREP via e-PSM.	Port State competent authority (usually fisheries, if not fisheries should receive and input to the decision to enter port).	At least 24 hours before arriving at the port, or less for fishing operations less than 24 hours away as required by port State.
Part 2 Port entry, authorisation or denial Section 7.1.	Additional Information may be requested from the following, or determined using the e-PSM application, to support verification and assessment of AREP, or where a vessel requests entry without submitting an AREP:  Vessel (via e-PSM, other) Flag State Coastal State port State IOTC/RFMOs Other networks, etc.  Such information can include, for example: → Validity of vessel's authorizations, licences for fishing, related activities → Vessel information; → VMS information → Transshipment declarations.	The information requested or researched in the e-PSM application should be received by the fisheries authorities, used in the verification/assessment of the AREP or other request for entry, and reported to the other relevant agencies including the port authorities.	Where requests for information are made to entities outside the port State, the entities should be asked to confirm receipt of the request and transmit the information within a reasonable period of time.
	Communicate decision to authorise or deny entry into port.	The vessel and its representative,	Procedures should require other relevant government agencies to be informed.

RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Sections 7.3.	Communicate the decision to deny the entry of the vessel into a port	The flag State; As appropriate and to the extent possible: → relevant coastal States, → IOTC Secretariat.	By most direct and appropriate means.
	IOTC Secretariat may, if deemed appropriate to combat IUU fishing at a global level, communicate the decision to deny entry.	Secretariats of other RFMOs	
Part 3 Use of ports Section 9.1, 9.3, 9.5.	Communicate the decision to deny the use of its port in accordance with Section 9.1 after granting a vessel permission to enter port.	Flag State, As appropriate, relevant: → coastal States; → IOTC Secretariat; → other RFMOs; → relevant international organisations.	By most direct and appropriate means.
	Communicate the decision to withdraw its denial for a vessel to use of its port.		
Part 4 Transmittal of inspection results Section 13 Section 13.1.	A copy of the inspection report and upon request, an original or a certified copy thereof.	The master of the inspected vessel The flag State The IOTC Secretariat As appropriate, to: → The flag State of any vessel that transhipped catch to the inspected vessel; → 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; → The State of which the vessel's master is a national.	Transmit by electronic means within three full working days of the completion of the inspection.

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Section 13.2.	IOTC Secretariat must transmit the inspection reports.	Relevant RFMOs.	Transmit by electronic means and post the inspection report on the IOTC website.
Port State actions following inspection.  Section 15.1 (a).	Communicate the findings 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 flag State, The IOTC Secretariat, As appropriate, to: → relevant coastal States; → other RFMOs; → State of which the vessel's master is a national.	Promptly after inspection and upon determination of clear grounds for belief in IUU fishing or related activities.
Section 15.3.	Request from the flag State to take additional measures that are in conformity with international law.	Port State.	
Information on recourse in the port State Section 16.1.	Make 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.	Vessel's flag State; owner; operator; master; representative.	



RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Section 16.2.	Port State must communicate any change in its decision.	Other Parties, States or international organisations that have been informed of the prior decision pursuant to sections 7, 9, 11 or 15.	
Role of CPCs flag States Section 17.2.	CPC flag State must request a port State to inspect the vessel or to take other measures consistent with this Resolution where 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 and is seeking entry to or is in the port of such State.	Relevant port State authority.	
Section 17.5.	Flag State to report 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 the Resolution, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.	Other CPCs; Relevant port States; As appropriate: → Other relevant States; → Regional fisheries management organisations; → FAO.	
Part 7 Duties of the IOTC Secretariat Section 19.1.	IOTC to post on website: the list of designated ports; the prior notification periods established by each CPC; the information about the designated competent authority in each port State CPC; the blank copy of the IOTC Port inspection report form.	Public access on IOTC website.	

## Port State Measures

Guidelines on best practices *for interagency cooperation at national level and regional cooperation*

RESOLUTION 16/11 Paragraph or Annex	INFORMATION TO BE NOTIFIED	RECIPIENTS OF INFORMATION	REQUIREMENTS FOR TRANSMISSION
Section 19.2.	IOTC to post on website inspection reports transmitted by port State CPCs.	Secure part of the IOTC website, permitting access by all CPCs.	Without delay.
Section 19.3.	IOTC to post together on website all forms related to a specific landing or transshipment.		
Section 19.4.	Inspection reports.	Relevant RFMOs.	Without delay.



# Port State Measures

## Guidelines on best practices

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Food and Agriculture  
Organization of the  
United Nations

Viale delle Terme di Caracalla  
00153 Rome, Italy

Tel: (+39) 06 57051  
E-mail: [FAO-HQ@fao.org](mailto:FAO-HQ@fao.org)

[www.fao.org](http://www.fao.org)



iotc ctoi

Le Chantier Mall  
PO Box 1011, Victoria, Seychelles

Tel: + 248 422 54 94  
E-mail: [iotc-secretariat@fao.org](mailto:iotc-secretariat@fao.org)

[www.iotc.org](http://www.iotc.org)

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