

AGREEMENT ON PORT STATE MEASURES  
TO PREVENT, DETER, AND ELIMINATE ILLEGAL,  
UNREPORTED, AND UNREGULATED FISHING

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER,  
AND ELIMINATE ILLEGAL, UNREPORTED, AND UNREGULATED  
FISHING, DONE AT THE FOOD AND AGRICULTURE ORGANIZA-  
TION OF THE UNITED NATIONS, IN ROME, ITALY, ON NOVEM-  
BER 22, 2009 (THE “AGREEMENT”)



NOVEMBER 14, 2011.—Treaty was read the first time, and together with  
the accompanying papers, referred to the Committee on Foreign Rela-  
tions and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE



## LETTER OF TRANSMITTAL

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THE WHITE HOUSE,  
Washington, November 14, 2011.

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to its ratification, the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing, done at the Food and Agriculture Organization of the United Nations, in Rome, Italy, on November 22, 2009 (the “Agreement”). I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement.

The Agreement established, for the first time at the global level, legally binding minimum standards for port states to control port access by foreign fishing vessels, as well as by foreign transport and supply ships that support fishing vessels. The Agreement also encourages Parties to apply similar measures to their own vessels. Involved Federal agencies and stakeholders strongly support the Agreement. The Agreement establishes practical provisions to prevent fish from illegal, unreported, and unregulated fisheries from entering the stream of commerce. If widely ratified and properly implemented, the Agreement will thereby serve as a valuable tool in combating illegal, unreported, and unregulated fishing worldwide.

The legislation necessary to implement the Agreement will be submitted separately to the Congress. I recommend that the Senate give early and favorable consideration to this Agreement and give its advice and consent to ratification.

BARACK OBAMA.



## LETTER OF SUBMITTAL

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DEPARTMENT OF STATE,  
*Washington, March 18, 2011.*

The PRESIDENT,  
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done in Rome, Italy, on November 22, 2009 (the "Agreement").

The Agreement establishes the first legally binding global minimum standards for port States to control port access by foreign fishing vessels, as well as transport and supply ships that support fishing vessels. The Agreement also encourages Parties to apply similar measures to their own vessels.

States, on their own and through regional mechanisms, have in recent years begun to limit and regulate access to their ports as a means to control illegal, unreported, and unregulated (IUU) fishing. The international community agreed to initiate a process within the United Nations Food and Agriculture Organization (FAO) to develop a legally binding instrument on port State measures. These negotiations concluded in August 2009. The Agreement was adopted by the FAO Conference and opened for signature on November 22, 2009; the United States was one of the first States to sign.

The Agreement requires Parties to designate ports to which foreign vessels may request entry and to require such vessels to provide advance notice for such requests. Parties are generally required to deny port entry to vessels known to have engaged in or supported IUU fishing, as well as to prohibit vessels in their ports from landing, transshipping, packaging, or processing fish where there is evidence the vessels engaged in or supported IUU fishing. Additionally, the Agreement includes commitments to assist developing States Parties to fulfill their obligations under it.

The Agreement establishes practical provisions to prevent IUU-caught fish from entering the stream of commerce. If widely ratified and properly implemented, the Agreement will thereby serve as a valuable tool in combating IUU fishing worldwide.

The Agreement is not self-executing. The recommended legislation necessary to implement the Agreement will be submitted separately to the Congress.

An overview of the Agreement, including a detailed article by article analysis, is enclosed with this report. The U.S. Department of State, the U.S. Department of Commerce, the U.S. Coast Guard, environmental NGOs, and the U.S. fishing industry strongly support the Agreement. The U.S. Department of Commerce and the U.S. Coast Guard join the Department of State in recommending that the proposed Agreement be transmitted to the Senate as soon as possible for its advice and consent to ratification.

Respectfully submitted,

HILLARY RODHAM CLINTON.

Enclosure: As stated.

AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND  
ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

OVERVIEW

The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done in Rome, Italy, November 22, 2009 (the “Agreement”), establishes the first legally binding global minimum standards for port States to control port access by foreign fishing vessels, as well as foreign transport and supply ships that support such fishing vessels. The Agreement also encourages Parties to apply similar measures to their own vessels.

Article 1, *Use of terms*, contains several definitions. Among the most important of those is the definition of “illegal, unreported, and unregulated fishing” (IUU), which the Agreement notes refers to the activities outlined in paragraph 3 of the United Nations Food and Agriculture Organization’s (FAO) 2001 International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA). The IPOA provides a reasonable and widely accepted description of activities that constitute IUU fishing. The specific reference in Article 1 to the 2001 IPOA would not incorporate any future changes to the description of IUU fishing in the IPOA.

The definition of IUU fishing incorporated by reference into the Agreement applies to the following activities: Illegal fishing is fishing conducted by vessels in waters under the jurisdiction of a State, without permission of that State or in contravention of the State’s laws and regulations; by vessels of a State member to a Regional Fisheries Management Organization (RFMO) in contravention of that RFMO’s conservation and management measures; or in contravention of other relevant international laws. Unreported fishing is fishing that has not been reported, or that has been misreported to the relevant national authority or to a relevant RFMO. Unregulated fishing is fishing in an area managed by an RFMO, when done by vessels that are not flagged to one of the Members of that RFMO and when done in a manner that is inconsistent with or in contravention of the RFMO’s management measures. Unregulated fishing also includes fishing in an area or on stocks for which there are no conservation and management measures, where that fishing is done in a manner inconsistent with States’ responsibilities to conserve living marine resources under international law. There are certain clarifications made to the application of the IUU definition in Article 3, *Scope*, that are described further below.

Also of note in this Article are the broad definitions of “fish” (all species of living marine resources), and “fishing related activities” (including not only fishing and landing, but also “packaging, processing, transshipping . . .” and “provisioning of personnel, fuel, gear and other supplies at sea”). The latter definition furthers the core purposes of the Agreement of combating IUU fishing by addressing not just the fishing vessels, but also supply and transport vessels that support IUU fishing.

Article 2, *Objective*, notes the straightforward objective of the Agreement is to “prevent, deter, and eliminate IUU fishing through the implementation of effective port State measures . . .”

Article 3, *Application*, requires a Party to apply the Agreement to all vessels not entitled to fly that Party's flag that are seeking to use its ports. It carves out exceptions for vessels from a neighboring State engaged in artisanal fishing for subsistence and, in certain circumstances, for container vessels. A Party is not required to apply the Agreement to its own flag vessels. A Party may choose not to apply the Agreement to vessels chartered by its nationals exclusively for fishing in areas under that Party's national jurisdiction. Article 3, paragraph 3, provides that the Agreement applies to "fishing conducted in marine areas that is illegal, unreported or unregulated . . .". Thus, the Agreement would not apply to non-marine areas such as the Great Lakes or other internal waters. Just as importantly, the use of the disjunctive "or" with respect to IUU fishing in paragraph 3, in conjunction with the reference in the definition of IUU fishing to "activities set out" in the IPOA (rather than simply adopting the IPOA definition), clarifies that a fishing activity need only qualify as one of the categories (illegal, unreported, or unregulated) to be IUU fishing. Finally, Article 3 also requires Parties to encourage other entities to apply measures consistent with the Agreement and provides that those that may not otherwise become Parties, such as Taiwan, may express a commitment to act consistently with the Agreement.

Article 4, *Relationship with international law and other international instruments*, provides that the Agreement will not prejudice "rights, jurisdiction, and duties of Parties under international law." This Article specifies that the Agreement does not affect a Party's jurisdiction over its internal, archipelagic, or territorial waters, or its rights over its Exclusive Economic Zones and continental shelf. It also specifies that by joining the Agreement, Parties would not bind themselves to the measures of RFMOs to which they are not members.

Article 5, *Integration and coordination at the national level*, requires a Party to integrate fisheries-related port measures within its larger system of port controls, to integrate its port measures with other efforts to combat IUU fishing, and to coordinate activities amongst its national agencies in implementing the Agreement.

Article 6, *Cooperation and exchange of information*, provides basic obligations for a Party to cooperate and exchange information with relevant States, the FAO, and other international organizations and regional fisheries management organizations. In addition to the information exchange, each Party is obligated "to the greatest extent possible" to take measures in support of conservation and management measures adopted by other States or relevant international organizations. This obligation reflects the fact that the minimum standards in port measures established by the Agreement (and to be applied by the Parties for vessels not entitled to fly its flag) are intended to combat fishing that is IUU because it is inconsistent with the flag State or coastal State's laws, or inconsistent with the measures of a relevant RFMO. Finally, Parties are obligated to cooperate at sub-regional, regional, and global levels to promote the effective implementation of the Agreement.

Article 7, *Designation of ports*, obligates Parties to designate and publicize ports to which vessels can request entry under the Agreement, and, to the greatest extent possible, to ensure that those



ports have sufficient capacity to conduct inspections pursuant to the Agreement.

Article 8, *Advance request for port entry*, obligates Parties to require from a vessel not entitled to fly its flag, at a minimum, the information listed in Annex A sufficiently in advance to allow adequate time to examine that information, before granting entry to that vessel into its port.

Article 9, *Port entry, authorization or denial*, requires that when a Party has received the relevant information to be provided under Article 8, and such other information as it may require, it will make a decision whether to authorize entry, and communicate that decision to the vessel. When a Party has “sufficient proof” that a vessel has engaged in IUU fishing or fishing-related activities, the Party is required to deny that vessel entry into its ports. “Sufficient proof” in particular includes a vessel being on the IUU list of a relevant fisheries management organization, adopted in accordance with the procedures of that organization and in accordance with international law. If entry is denied, the Party denying entry is required to communicate that decision to the vessel’s flag State, and, if relevant, coastal States, RFMOs, and other international organizations. A Party may allow such vessel entry into its port for purposes of inspecting the vessel and taking other appropriate action in conformity with international law that is at least as effective as denial of port entry in preventing, deterring, and eliminating IUU fishing or fishing-related activities.

Article 10, *Force majeure or distress*, provides that the Agreement does not affect the entry of vessels into port for reasons of *force majeure* or distress, in accordance with international law.

Article 11, *Use of ports*, outlines circumstances where a Party is required to deny a vessel that is already in its port the use of the port for landing, transshipping, packaging, processing, and other port services (e.g., refueling, drydocking, etc.). Such circumstances include: lack of authorization for the vessel’s activities from its flag State, or from a relevant coastal State; receipt of clear evidence that the fish on the vessel was taken in contravention of applicable coastal State requirements; failure by the flag State to confirm that the vessel took fish onboard in accordance with relevant RFMO measures; or the existence of reasonable grounds to believe the vessel was engaged in IUU fishing or fishing-related activities. This Article also confirms that Parties will not deny such vessels the use of port services essential to the safety or health of the crew, the safety of the vessel, or, where appropriate, the scrapping of the vessel.

Article 12, *Levels and priorities for inspection*, provides that each Party shall inspect an unspecified number of vessels in its ports necessary to “achieve the objective of this Agreement.” This allows a Party to tailor the level and frequency of inspections to the circumstances in its particular port(s) or to particular fisheries. The Article also provides that Parties shall seek to agree on minimum levels of inspection, as appropriate, through RFMOs, the FAO, or otherwise. The process of seeking such agreement has already begun at RFMOs in the year since the text of the Agreement was finalized. Finally, the Article outlines priorities for determining which vessels should be inspected, giving priority to vessels denied

entry or use of port, vessels that other relevant Parties or entities request be inspected, and vessels for which clear grounds exist for suspecting a vessel has engaged in IUU fishing or fishing-related activities.

Article 13, *Conduct of inspections*, specifies minimum requirements for carrying out inspections. These include that inspectors be properly qualified and examine all relevant areas of the vessel, and that Parties require from the vessel master all necessary assistance and information. Parties must make all positive efforts to avoid undue delay to the vessel, and to facilitate communications with the master of the vessel, ensure inspections are fair, transparent, and nondiscriminatory, and not interfere with the ability of the master to communicate with the vessel's flag State. Minimum functions of the inspectors are included in Annex B of the Agreement, which provides, *inter alia*, that the inspector should verify the vessel's identification documentation, flag and markings, and authorizations for conducting fishing or fishing-related activities. Inspections must also encompass review of other documentation (such as VMS data), fishing gear and any fish on board, and an evaluation of whether there is clear evidence for believing the vessel was conducting or supporting IUU fishing or fishing-related activities.

Article 14, *Results of inspections*, requires Parties, at a minimum, to include the information in Annex C in each inspection report.

Article 15, *Transmittal of inspection results*, specifies to which entities inspection reports are to be sent, including the vessel's flag State, and, as appropriate, other Parties, States, RFMOs, and the FAO or other international organizations.

Article 16, *Electronic exchange of information*, provides that each Party, where possible, must establish an electronic communication mechanism to facilitate implementation of the Agreement. Annex D outlines specific elements of such an electronic communication mechanism. This Article also encourages Parties to establish a centralized mechanism (preferably at the FAO) for such purposes.

Article 17, *Training of inspectors*, requires inspectors to be properly trained, taking into account guidelines for such training set out in Annex E.

Article 18, *Port State actions following inspection*, provides that if, following an inspection, there are "clear grounds" for believing a vessel engaged in IUU fishing or fishing-related activities, then the inspecting Party shall notify the flag State and other appropriate entities, and deny use of the port and port services to the vessel, other than those services essential for the safety or health of the crew or the safety of the vessel. This Article also confirms that nothing in the Agreement prevents a Party from taking other measures in conformity with international law.

Article 19, *Information on recourse in the port State*, requires that information be provided to an affected vessel upon request with regard to potential recourse under a Party's national laws, as well as information on whether, in the event of loss or damage caused by unlawful action by the port State, there is any right to seek compensation under the Party's national laws. The Article is only a requirement to provide information on existing remedies. It does not create a right of action for an affected vessel, nor does it require any Party to create a right of action.

Article 20, *Role of flag States*, specifies duties of a Party with regard to vessels entitled to fly its flag. The duties include: requiring such vessels to cooperate with port States; requesting port States to investigate such a vessel if the Party has clear grounds to believe the vessel was involved in IUU fishing; encouraging such vessels to utilize the ports of States that are acting in accordance with the Agreement; conducting investigations following up on inspections conducted by port States that indicate clear grounds to believe that such a vessel was involved in IUU fishing; reporting on actions taken in its role as flag State against such vessels determined to have engaged in IUU fishing; and ensuring that measures applied to such vessels are at least as effective as measures applied to foreign flag vessels pursuant to the Agreement.

Article 21, *Requirements of developing States*, requires Parties to provide assistance to developing States Parties to enhance their ability to implement effective port State measures, and to ensure that a disproportionate burden is not imposed upon them. While no particular form of assistance is mandated, examples of such assistance include providing technical and financial assistance through bilateral and multilateral channels. Parties are required to cooperate to establish funding mechanisms, and to create an ad hoc working group to report and make recommendations to the Parties on the development of assistance opportunities.

Article 22, *Peaceful settlement of disputes*, provides that any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the Agreement, and, where the dispute is not resolved through such consultations, requires such Parties to consult with a view to settling it through the peaceful means of their choice. The Article also provides that the parties to a dispute that is not resolved through such consultations may refer the dispute to the International Court of Justice, the International Tribunal for the Law of the Sea, or arbitration, but only with the consent of all of the Parties to that dispute.

Article 23, *Non-Parties to this Agreement*, specifies that Parties must encourage non-Parties to join or to act consistent with the Agreement, and must take fair, non-discriminatory, and transparent measures to deter the activities of non-Parties that undermine the Agreement.

Article 24, *Monitoring, review and assessment*, requires Parties, through the framework of the FAO, to ensure regular review and monitoring of the implementation of the Agreement, and specifically to convene a meeting of the Parties for this purpose four years after the entry into force.

Article 25, *Signature*, specifies that the Agreement will be open for signature by all States and regional economic integration organizations (REIOs) from November 22, 2009 to November 21, 2010. During this period, the Agreement was signed by 22 States and one REIO, the European Union.

Article 26, *Ratification, acceptance or approval*, states that the Agreement is subject to ratification, acceptance, or approval by the signatories, and that such instruments are to be deposited with the Depositary.

Article 27, *Accession*, provides that the Agreement will be open to accession by all States or REIOs, reflecting the objective of global coverage for the Agreement, and that all instruments of accession are to be deposited with the Depositary.

Article 28, *Participation by Regional Economic Integration Organizations*, provides for the participation of either an REIO and/or its member States, and is drawn from the 1995 UN Fish Stocks Agreement. It specifies that at the time of signature or accession, an REIO must either declare that it has competence for its member States for all matters governed by the Agreement, or, if there is mixed competence between the REIO and its member States. When the European Union (currently the only REIO) signed the Agreement, it declared sole competence for its member States.

Article 29, *Entry into force*, provides for the entry into force thirty days after the twenty-fifth deposit of an instrument of ratification, acceptance, approval, or accession. As of February 1, 2011, no such instruments have been deposited.

Article 30, *Reservations or exceptions*, precludes making “reservations or exceptions.” The article is drawn from Article 42 of the 1996 UN Fish Stocks Agreement, which reflects standard practice (and terminology) in fisheries-related agreements.

Article 31, *Declarations and statements*, confirms that Article 30 does not preclude States from making declarations or statements at the time of their signature, ratification, acceptance, or approval for the purpose of harmonizing their laws and regulations with the Agreement, so long as those declarations or statements do not purport to exclude or modify the legal effect of the provisions of the Agreement.

Article 32, *Provisional application*, provides for provisional application of the Agreement by those States that so notify the Depositary.

Article 33, *Amendments*, provides that amendments will be adopted and approved only by the Parties to the Agreement, not by the FAO or its bodies. Parties may propose amendments two years after the Agreement enters into force. Amendments may be adopted only by consensus and will enter into force for those Parties that have ratified, accepted, or approved them 90 days after the deposit of instruments of ratification, acceptance, or approval from two-thirds of the Parties based on the number of Parties on the date of the amendment’s adoption, and thereafter for other Parties 90 days following deposit of their instrument of ratification, acceptance, or approval.

Article 34, *Annexes*, provides that the annexes are an integral part of the Agreement. It also specifies that amendments to the annexes may be adopted by two-thirds of the Parties present at a meeting where the proposed annex amendment is considered. An annex amendment enters into force for Parties that accept the annex amendment on the date that the depositary receives notice of acceptance from one-third of the Parties based on the number of Parties on the date of adoption of the amendment, and thereafter for other Parties on the date of receipt by the Depositary of their acceptance. The expedited procedure for amending annexes reflects the technical and administrative nature of the annexes, which include specification of the information to be provided when a vessel

is requesting port entry, an outline of port inspection procedures, a form for reporting the results of a port inspection, description of information systems, and guidelines for training port inspectors.

Article 35, *Withdrawal*, notes that a Party may withdraw from the Agreement anytime after the Agreement has been in force for that Party for one year. Withdrawal becomes effective one year after receipt by the Depositary of the notice of withdrawal.

Article 36, *The Depositary*, designates the Director-General of FAO as Depositary for the Agreement and sets forth the functions of the Depositary.

Article 37, *Authentic texts*, establishes the Arabic, Chinese, English, French, Russian, and Spanish texts as equally authentic.



**AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND  
ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

**PREAMBLE**

*The Parties to this Agreement,*

*Deeply concerned* about the continuation of illegal, unreported and unregulated fishing and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers, and the increasing need for food security on a global basis,

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

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

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

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

*Acknowledging* the rapidly developing communications technology, databases, networks and global records that support port State measures,

*Recognizing* the need for assistance to developing countries to adopt and implement port State measures,

*Taking note of* the calls by the international community through the United Nations System, including the United Nations General Assembly and the Committee on Fisheries of the Food and Agriculture Organization of the United Nations, hereinafter referred to as 'FAO', for a binding international instrument on minimum standards for port State measures, based on the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing,

*Bearing in mind* that, in the exercise of their sovereignty over ports located in their territory, States may adopt more stringent measures, in accordance with international law,

*Recalling* the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the 'Convention',

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

*Recognizing* the need to conclude an international agreement within the framework of FAO, under Article XIV of the FAO Constitution,

*Have agreed as follows:*

## **PART I GENERAL PROVISIONS**

### **Article 1 Use of terms**

For the purposes of this Agreement:

- (a) "conservation and management measures" means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;
- (b) "fish" means all species of living marine resources, whether processed or not;
- (c) "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;



- (d) "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;
- (e) "illegal, unreported and unregulated fishing" refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as 'IUU fishing';
- (f) "Party" means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force;
- (g) "port" includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- (h) "regional economic integration organization" means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (i) "regional fisheries management organization" means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures; and
- (j) "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.

## **Article 2**

### **Objective**

The objective of this Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.

**Article 3**  
**Application**

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

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

2. A Party may, in its capacity as a port State, decide not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels entitled to fly its flag.

3. This Agreement shall apply to fishing conducted in marine areas that is illegal, unreported or unregulated, as defined in Article 1(e) of this Agreement, and to fishing related activities in support of such fishing.

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

5. As this Agreement is global in scope and applies to all ports, the Parties shall encourage all other entities to apply measures consistent with its provisions. Those that may not otherwise become Parties to this Agreement may express their commitment to act consistently with its provisions.

**Article 4**  
**Relationship with international law and other international instruments**

1. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of Parties under international law. In particular, nothing in this Agreement shall be construed to affect:

- (a) the sovereignty of Parties over their internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zones;
  - (b) the exercise by Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent port State measures than those provided for in this Agreement, including such measures adopted pursuant to a decision of a regional fisheries management organization.
2. In applying this Agreement, a Party does not thereby become bound by measures or decisions of, or recognize, any regional fisheries management organization of which it is not a member.
3. In no case is a Party obliged under this Agreement to give effect to measures or decisions of a regional fisheries management organization if those measures or decisions have not been adopted in conformity with international law.
4. This Agreement shall be interpreted and applied in conformity with international law taking into account applicable international rules and standards, including those established through the International Maritime Organization, as well as other international instruments.
5. Parties shall fulfil in good faith the obligations assumed pursuant to this Agreement and shall exercise the rights recognized herein in a manner that would not constitute an abuse of right.

#### **Article 5**

##### **Integration and coordination at the national level**

Each Party shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and

- (c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Agreement.

#### **Article 6**

##### **Cooperation and exchange of information**

1. In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations, including on the measures adopted by such regional fisheries management organizations in relation to the objective of this Agreement.
2. Each Party shall, to the greatest extent possible, take measures in support of conservation and management measures adopted by other States and other relevant international organizations.
3. Parties shall cooperate, at the subregional, regional and global levels, in the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organizations and arrangements.

#### **PART 2**

##### **ENTRY INTO PORT**

#### **Article 7**

##### **Designation of ports**

1. Each Party shall designate and publicize the ports to which vessels may request entry pursuant to this Agreement. Each Party shall provide a list of its designated ports to FAO, which shall give it due publicity.
2. Each Party shall, to the greatest extent possible, ensure that every port designated and publicized in accordance with paragraph 1 of this Article has sufficient capacity to conduct inspections pursuant to this Agreement.

## **Article 8**

### **Advance request for port entry**

1. Each Party shall require, as a minimum standard, the information requested in Annex A to be provided before granting entry to a vessel to its port.
2. Each Party shall require the information referred to in paragraph 1 of this Article to be provided sufficiently in advance to allow adequate time for the port State to examine such information.

## **Article 9**

### **Port entry, authorization or denial**

1. After receiving the relevant information required pursuant to Article 8, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each Party shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.
2. In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorization for entry to the competent authorities of the Party upon the vessel's arrival at port.
3. In the case of denial of entry, each Party shall communicate its decision taken pursuant to paragraph 1 of this Article to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States, regional fisheries management organizations and other international organizations.
4. Without prejudice to paragraph 1 of this Article, when a Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the Party shall deny that vessel entry into its ports, taking into due account paragraphs 2 and 3 of Article 4.
5. Notwithstanding paragraphs 3 and 4 of this Article, a Party may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

6. Where a vessel referred to in paragraph 4 or 5 of this Article is in port for any reason, a Party shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking. Paragraphs 2 and 3 of Article 11 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

#### **Article 10**

##### **Force majeure or distress**

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

### **PART 3**

#### **USE OF PORTS**

#### **Article 11**

##### **Use of ports**

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

- (a) the Party 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;
- (b) the Party 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;
- (c) the Party receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- (d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization taking into due account paragraphs 2 and 3 of Article 4; or
  - (e) the Party has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 4 of Article 9, unless the vessel can establish:
    - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
    - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in paragraph 4 of Article 9.
2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services:
- (a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or
  - (b) where appropriate, for the scrapping of the vessel.
3. Where a Party has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other relevant international organizations of its decision.
4. A Party shall withdraw its denial of the use of its port pursuant to paragraph 1 of this Article in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
5. Where a Party has withdrawn its denial pursuant to paragraph 4 of this Article, it shall promptly notify those to whom a notification was issued pursuant to paragraph 3 of this Article.

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

**Article 12**  
**Levels and priorities for inspection**

1. Each Party shall inspect the number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of this Agreement.
2. Parties shall seek to agree on the minimum levels for inspection of vessels through, as appropriate, regional fisheries management organizations, FAO or otherwise.
3. In determining which vessels to inspect, a Party shall give priority to:
  - (a) vessels that have been denied entry or use of a port in accordance with this Agreement;
  - (b) requests from other relevant Parties, States or regional fisheries management organizations that particular vessels be inspected, particularly where such requests are supported by evidence of IUU fishing or fishing related activities in support of such fishing by the vessel in question; and
  - (c) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing or fishing related activities in support of such fishing.

**Article 13**  
**Conduct of inspections**

1. Each Party shall ensure that its inspectors carry out the functions set forth in Annex B as a minimum standard.
2. Each Party shall, in carrying out inspections in its ports:
  - (a) ensure that inspections are carried out by properly qualified inspectors authorized for that purpose, having regard in particular to Article 17;



- (b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
- (c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant conservation and management measures;
- (d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
- (e) in case of appropriate arrangements with the flag State of the vessel, invite that State to participate in the inspection;
- (f) make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- (g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- (h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- (i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

#### **Article 14**

##### **Results of inspections**

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

## **Article 15**

### **Transmittal of inspection results**

Each Party shall transmit the results of each inspection to the flag State of the inspected vessel and, as appropriate, to:

- (a) relevant Parties and States, including:
  - (i) those States for which there is evidence through inspection that the vessel has engaged in IUU fishing or fishing related activities in support of such fishing within waters under their national jurisdiction; and
  - (ii) the State of which the vessel's master is a national;
- (b) relevant regional fisheries management organizations; and
- (c) FAO and other relevant international organizations.

## **Article 16**

### **Electronic exchange of information**

1. To facilitate implementation of this Agreement, each Party shall, where possible, establish a communication mechanism that allows for direct electronic exchange of information, with due regard to appropriate confidentiality requirements.
2. To the extent possible and with due regard to appropriate confidentiality requirements, Parties should cooperate to establish an information-sharing mechanism, preferably coordinated by FAO, in conjunction with other relevant multilateral and intergovernmental initiatives, and to facilitate the exchange of information with existing databases relevant to this Agreement.
3. Each Party shall designate an authority that shall act as a contact point for the exchange of information under this Agreement. Each Party shall notify the pertinent designation to FAO.
4. Each Party shall handle information to be transmitted through any mechanism established under paragraph 1 of this Article consistent with Annex D.

5. FAO shall request relevant regional fisheries management organizations to provide information concerning the measures or decisions they have adopted and implemented which relate to this Agreement for their integration, to the extent possible and taking due account of the appropriate confidentiality requirements, into the information-sharing mechanism referred to in paragraph 2 of this Article.

#### **Article 17**

##### **Training of inspectors**

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

#### **Article 18**

##### **Port State actions following inspection**

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

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other international organizations, and the State of which the vessel's master is a national of its findings; and
- (b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Agreement, including Article 4.

2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services essential for the safety or health of the crew or the safety of the vessel.

3. Nothing in this Agreement prevents a Party from taking measures that are in conformity with international law in addition to those specified in paragraphs 1 and 2 of this Article, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

**Article 19**

**Information on recourse in the port State**

1. A Party shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that Party pursuant to Articles 9, 11, 13 or 18, 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 Party.
2. The Party shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organizations have been informed of the prior decision pursuant to Articles 9, 11, 13 or 18, the Party shall inform them of any change in its decision.

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

**Article 20**

**Role of flag States**

1. Each Party shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Agreement.
2. When a Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Agreement.
3. Each Party shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Agreement. Parties are encouraged to develop, including through regional fisheries management organizations and FAO, fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Agreement.
4. Where, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag

has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

5. Each Party shall, in its capacity as a flag State, report to other Parties, relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Agreement, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

6. Each Party shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in paragraph 1 of Article 3.

## **PART 6**

### **REQUIREMENTS OF DEVELOPING STATES**

#### **Article 21**

##### **Requirements of developing States**

1. Parties shall give full recognition to the special requirements of developing States Parties in relation to the implementation of port State measures consistent with this Agreement. To this end, Parties shall, either directly or through FAO, other specialized agencies of the United Nations or other appropriate international organizations and bodies, including regional fisheries management organizations, provide assistance to developing States Parties in order to, *inter alia*:

- (a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
- (b) facilitate their participation in any international organizations that promote the effective development and implementation of port State measures; and
- (c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.

2. Parties shall give due regard to the special requirements of developing port States Parties, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Agreement is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, Parties shall cooperate to facilitate the implementation by the relevant developing States Parties of specific obligations under this Agreement.

3. Parties shall, either directly or through FAO, assess the special requirements of developing States Parties concerning the implementation of this Agreement.

4. Parties shall cooperate to establish appropriate funding mechanisms to assist developing States in the implementation of this Agreement. These mechanisms shall, *inter alia*, be directed specifically towards:

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

5. Cooperation with and among developing States Parties for the purposes set out in this Article may include the provision of technical and financial assistance through bilateral, multilateral and regional channels, including South-South cooperation.

6. Parties shall establish an *ad hoc* working group to periodically report and make recommendations to the Parties on the establishment of funding mechanisms including a scheme for contributions, identification and mobilization of funds, the development of criteria and procedures to guide implementation, and progress in the implementation of the funding mechanisms. In addition to the considerations provided in this Article, the *ad hoc* working group shall take into account, *inter alia*:

- (a) the assessment of the needs of developing States Parties, in particular the least-developed among them and small island developing States;

- (b) the availability and timely disbursement of funds;
- (c) transparency of decision-making and management processes concerning fundraising and allocations; and
- (d) accountability of the recipient developing States Parties in the agreed use of funds.

Parties shall take into account the reports and any recommendations of the *ad hoc* working group and take appropriate action.

## PART 7 DISPUTE SETTLEMENT

### Article 22

#### Peaceful settlement of disputes

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.
2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

**Article 26**

**Ratification, acceptance or approval**

1. This Agreement shall be subject to ratification, acceptance or approval by the signatories.
2. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

**Article 27**

**Accession**

1. After the period in which this Agreement is open for signature, it shall be open for accession by any State or regional economic integration organization.
2. Instruments of accession shall be deposited with the Depositary.

**Article 28**

**Participation by Regional Economic Integration Organizations**

1. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply *mutatis mutandis* to participation by such regional economic integration organization in this Agreement, except that the following provisions of that Annex shall not apply:
  - (a) Article 2, first sentence; and
  - (b) Article 3, paragraph 1.
2. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by the regional economic integration organization in this Agreement:
  - (a) at the time of signature or accession, such organization shall make a declaration stating:
    - (i) that it has competence over all the matters governed by this Agreement;



**PART 8**  
**NON-PARTIES**

**Article 23**  
**Non-Parties to this Agreement**

1. Parties shall encourage non-Parties to this Agreement to become Parties thereto and/or to adopt laws and regulations and implement measures consistent with its provisions.
2. Parties shall take fair, non-discriminatory and transparent measures consistent with this Agreement and other applicable international law to deter the activities of non-Parties which undermine the effective implementation of this Agreement.

**PART 9**  
**MONITORING, REVIEW AND ASSESSMENT**

**Article 24**  
**Monitoring, review and assessment**

1. Parties shall, within the framework of FAO and its relevant bodies, ensure the regular and systematic monitoring and review of the implementation of this Agreement as well as the assessment of progress made towards achieving its objective.
2. Four years after the entry into force of this Agreement, FAO shall convene a meeting of the Parties to review and assess the effectiveness of this Agreement in achieving its objective. The Parties shall decide on further such meetings as necessary.

**PART 10**  
**FINAL PROVISIONS**

**Article 25**  
**Signature**

This Agreement shall be open for signature at FAO from the Twenty-second day of November 2009 until the Twenty-first day of November 2010 by all States and regional economic integration organizations.

- (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the organization has no responsibility; and
  - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an organization shall in no case confer any rights under this Agreement on member States of the organization;
- (c) in the event of a conflict between the obligations of such organization under this Agreement and its obligations under the Agreement establishing the organization or any acts relating to it, the obligations under this Agreement shall prevail.

#### **Article 29**

##### **Entry into force**

1. This Agreement shall enter into force thirty days after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance, approval or accession in accordance with Article 26 or 27.
2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

#### **Article 30**

##### **Reservations and exceptions**

No reservations or exceptions may be made to this Agreement.

**Article 31****Declarations and statements**

Article 30 does not preclude a State or regional economic integration organization, when signing, ratifying, accepting, approving or acceding to this Agreement, from making a declaration or statement, however phrased or named, with a view to, *inter alia*, the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declaration or statement does not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or regional economic integration organization.

**Article 32****Provisional application**

1. This Agreement shall be applied provisionally by States or regional economic integration organizations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the Depositary in writing of its intention to terminate provisional application.

**Article 33****Amendments**

1. Any Party may propose amendments to this Agreement after the expiry of a period of two years from the date of entry into force of this Agreement.

2. Any proposed amendment to this Agreement shall be transmitted by written communication to the Depositary along with a request for the convening of a meeting of the Parties to consider it. The Depositary shall circulate to all Parties such communication as well as all replies to the request received from Parties. Unless within six months from the date of circulation of the communication one half of the Parties object to the request, the Depositary shall convene a meeting of the Parties to consider the proposed amendment.

3. Subject to Article 34, any amendment to this Agreement shall only be adopted by consensus of the Parties present at the meeting at which it is proposed for adoption.

4. Subject to Article 34, any amendment adopted by the meeting of the Parties shall come into force among the Parties having ratified, accepted or approved it on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by two-thirds of the Parties to this Agreement based on the number of Parties on the date of adoption of the amendment. Thereafter the amendment shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

5. For the purposes of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

#### **Article 34**

##### **Annexes**

1. The Annexes form an integral part of this Agreement and a reference to this Agreement shall constitute a reference to the Annexes.

2. An amendment to an Annex to this Agreement may be adopted by two-thirds of the Parties to this Agreement present at a meeting where the proposed amendment to the Annex is considered. Every effort shall however be made to reach agreement on any amendment to an Annex by way of consensus. An amendment to an Annex shall be incorporated in this Agreement and enter into force for those Parties that have expressed their acceptance from the date on which the Depositary receives notification of acceptance from one-third of the Parties to this Agreement, based on the number of Parties on the date of adoption of the amendment. The amendment shall thereafter enter into force for each remaining Party upon receipt by the Depositary of its acceptance.

#### **Article 35**

##### **Withdrawal**

Any Party may withdraw from this Agreement at any time after the expiry of one year from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Depositary. Withdrawal shall become effective one year after receipt of the notice of withdrawal by the Depositary.

**Article 36**  
**The Depositary**

The Director-General of FAO shall be the Depositary of this Agreement. The Depositary shall:

- (a) transmit certified copies of this Agreement to each signatory and Party;
- (b) register this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) promptly inform each signatory and Party to this Agreement of all:
  - (i) signatures and instruments of ratification, acceptance, approval and accession deposited under Articles 25, 26 and 27;
  - (ii) the date of entry into force of this Agreement in accordance with Article 29;
  - (iii) proposals for amendment to this Agreement and their adoption and entry into force in accordance with Article 33;
  - (iv) proposals for amendment to the Annexes and their adoption and entry into force in accordance with Article 34; and
  - (v) withdrawals from this Agreement in accordance with Article 35.

**Article 37**  
**Authentic texts**

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized, have signed this Agreement.

DONE in Rome on this Twenty-second day of November, 2009.

## ANNEX A

Information to be provided in advance by vessels requesting port entry

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

22. Total catch onboard				23. Catch to be offloaded
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>	<i>Quantity</i>

**ANNEX B****Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex A;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;



- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.

## ANNEX C

## Report of the results of the inspection

1. Inspection report no		2. Port State	
3. Inspecting authority			
4. Name of principal inspector		ID	
5. Port of inspection			
6. Commencement of inspection	YYYY	MM	DD HH
7. Completion of inspection	YYYY	MM	DD HH
8. Advanced notification received	Yes		No
9. Purpose(s)	LAN	TRX	PRO OTH (specify)
10. Port and State and date of last port call		YYYY	MM DD
11. Vessel name			
12. Flag State			
13. Type of vessel			
14. International Radio Call Sign			
15. Certificate of registry ID			
16. IMO ship ID, if available			
17. External ID, if available			
18. Port of registry			
19. Vessel owner(s)			
20. Vessel beneficial owner(s), if known and different from vessel owner			
21. Vessel operator(s), if different from vessel owner			
22. Vessel master name and nationality			
23. Fishing master name and nationality			
24. Vessel agent			
25. VMS	No	Yes: National	Yes: RFMOs Type:
26. Status in RFMO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing			
Vessel identifier	RFMO	Flag State status	Vessel on authorized vessel list

<b>27. Relevant fishing authorization(s)</b>						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
<b>28. Relevant transshipment authorization(s)</b>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<b>29. Transshipment information concerning donor vessels</b>						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
<b>30. Evaluation of offloaded catch (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>31. Catch retained onboard (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>32. Examination of logbook(s) and other documentation</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>33. Compliance with applicable catch documentation scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>34. Compliance with applicable trade information scheme(s)</b>				<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>35. Type of gear used</b>						
<b>36. Gear examined in accordance with paragraph e) of Annex B</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
<b>37. Findings by inspector(s)</b>						
<b>38. Apparent infringement(s) noted including reference to relevant legal instrument(s)</b>						

<b>39. Comments by the master</b>
<b>40. Action taken</b>
<b>41. Master's signature</b>
<b>42. Inspector's signature</b>

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

In implementing this Agreement, each Party shall:

- a) seek to establish computerized communication in accordance with Article 16;
- b) establish, to the extent possible, websites to publicize the list of ports designated in accordance with Article 7 and the actions taken in accordance with the relevant provisions of this Agreement;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilize, to the extent possible, the international coding system below in Annexes A and C and translate any other coding system into the international system.

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

## ANNEX E


**Guidelines for the training of inspectors**

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

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

In the name of: UNITED STATES OF AMERICA  
 Au nom de: ÉTATS-UNIS D'AMÉRIQUE  
 En nombre de: ESTADOS UNIDOS DE AMÉRICA  
 باسم : الولايات المتحدة الأمريكية  
 代表: 美国  
 От имени: СОЕДИНЕННЫЕ ШТАТЫ АМЕРИКИ

CERTIFIED TRUE COPY

  
 Antonio Tavares  
 Chief  
 General Legal Affairs Service  
 Legal Office  
 Date 27/10/2009

*Ambassador Ertharin Cousin*  
*Ertharin Cousin*

22 NOV 2009

This signature constitutes the signature referred to in Article 25 of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, which was adopted pursuant to Article XIV of the FAO Constitution at the thirty-sixth Session of the FAO Conference held in November 2009.

Cette signature constitue la signature visée à l'Article 25 de l'Accord relatif aux mesures du ressort de l'État du port visant à prévenir, contrecarrer et éliminer la pêche illicite, non déclarée et non réglementée, adopté conformément à l'Article XIV de l'Acte constitutif de la FAO lors de la trente-sixième session de la Conférence de la FAO, tenue en novembre 2009.

Esta firma es la firma mencionada en el artículo 25 del Acuerdo sobre medidas del Estado rector del puerto destinadas a prevenir, desalentar y eliminar la pesca ilegal, no declarada y no reglamentada, aprobado con arreglo al artículo XIV de la Constitución de la FAO en el 36.º período de sesiones de la Conferencia de la FAO, celebrado en noviembre de 2009.

يشير هذا التوقيع إلى التوقيع المشار إليه في المادة 25 من الاتفاق بشأن التدابير التي تتخذها دولة الميناء لمنع الصيد غير القانوني دون إبلاغ ودون تنظيم وردعه والقضاء عليه، وهو الاتفاق الذي ووفق عليه بموجب المادة 14 من دستور منظمة الأغذية والزراعة خلال الدورة السادسة والثلاثين للمؤتمر المنظمة في نوفمبر/تشرين الثاني 2009.

本签署系《关于港口国预防、制止和消除非法、不报告、不管制捕鱼的措施协定》第 25 条中提及的签署。该《条约》已由 2009 年 11 月举行的粮农组织大会第三十六届会议依照粮农组织章程第 XIV 条通过。

Настоящее подписание представляет собой подписание в понимании Статьи 25 Соглашения о мерах государства порта по предупреждению, сдерживанию и ликвидации незаконного, несообщаемого и нерегулируемого рыбного промысла, которое было принято согласно статьи XIV Устава ФАО на тридцать шестой сессии Конференции ФАО, состоявшейся в ноябре 2009 года.

CERTIFIED TRUE COPY of the English version of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing which was approved on 22 November 2009 at the Thirty-sixth Session of the FAO Conference. In accordance with the provisions of paragraph 7 of Article XIV of the FAO Constitution, this has been certified by the Director-General of the Organization and the Chairperson of the Conference.

Jacques Diouf  
Director-General  
Food and Agriculture Organization of  
the United Nations

Kathleen Merrigan  
Chairperson of the Conference

**CERTIFIED TRUE COPY**

  
Antonio Tavares  
Chief  
General Legal Affairs Service  
Legal Office

Date ... 24/10/2010 ...