

Reports of the

**IOC/FAO/IOTC SYMPOSIUM AND WORKSHOP TO STRENGTHEN
PORT STATE MEASURES IN THE INDIAN OCEAN**

Port Louis, Mauritius, 18–22 June 2007



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PREPARATION OF THIS DOCUMENT

These are the final versions of the reports of the IOC/FAO/IOTC Symposium and Workshop to Strengthen Port State Measures in the Indian Ocean held in Port Louis, Mauritius, from 18 to 22 June 2007.

FAO.

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ABSTRACT

This document contains the reports of the IOC/FAO/IOTC [Indian Ocean Commission/Food and Agriculture Organization of the United Nations/Indian Ocean Tuna Commission] Symposium and Workshop to Strengthen Port State Measures in the Indian Ocean held in Port Louis, Mauritius, from 18 to 22 June 2007. Participants included representatives from governments, industry, regional fisheries management organizations (RFMOs) and civil society.

The Symposium was held from 18 to 20 June 2007 with the purpose of raising general awareness about the potential effectiveness of strengthened and coordinated port State measure and to develop national capacity and promote regional coordination so that countries would be better placed to improve the management of offshore fisheries and combat illegal, unreported and unregulated (IUU) fishing in the Indian Ocean and, as a result, meet the requirements of relevant RFMOs. The Symposium addressed a broad range of issues fundamental to the implementation of effective port State measures. Issues and initiatives addressed in the Symposium included the international and regional frameworks for port State measures, the legal tools and mechanisms that might be used to implement such measures, the role of information systems, human resource development and stakeholder actions.

The Workshop was held immediately following the Symposium from 21 to 22 June 2007. It focused on participatory exercises and problem solving activities based on the knowledge acquired during the Symposium. Working Groups were formed and case studies used to enhance knowledge and skills relating to port State measures as a means of combating IUU fishing. Exercises included the practical application of port State measures, strengthening standards for port State measures and the “Bold Beauty” case study.

The anticipated outcomes of the Symposium and Workshop were to raise participants’ awareness of the deleterious effects of weak management of offshore fisheries, including IUU fishing, and the need for strengthened and coordinated port State measures; assure comprehensive understanding of the regional requirements and relevant international instruments and their relation to participants’ countries; reach a clear understanding of the role of administrative arrangements in maximizing the effectiveness of port State measures; reach a clear understanding of the operational and technical requirements for effective port State measures; reach a clear understanding of the human capacity development needs and training initiatives for port State measures; identify steps that national fisheries administrations might take to develop their port State measures that implement regional

requirements, the FAO Model Scheme and relevant measures in the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU); build shared understanding and harmonization, as appropriate, of port State measures needed in the region to manage offshore fisheries and combat IUU fishing; build an improved understanding of the basis for the development of a binding international instrument on port State measures.

The convenors of the Symposium and Workshop expected that they would result in improved capacity for countries to strengthen and coordinate their port State measures with the objective of better managing offshore fisheries and deterring IUU fishing.

The Symposium and Workshop were funded jointly by IOC, IOTC and FAO. The contribution from FAO came from the Regular Programme, the Trust Fund for Port State Measures (GCP/INT/032/NOR) and the FishCode Programme (Training and Awareness for Responsible Fisheries project (MTF/GLO/125/MUL (01-Sweden))

Distribution:

Participants in the session
Other interested nations and international
organizations
FAO Fisheries and Aquaculture Department

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IOC/FAO/IOTC SYMPOSIUM

TO STRENGTHEN PORT STATE MEASURES IN THE INDIAN OCEAN

1. The IOC/FAO/IOTC [Indian Ocean Commission/Food and Agriculture Organization of the United Nations/Indian Ocean Tuna Commission] Symposium and Workshop to Strengthen Port State Measures in the Indian Ocean was held at the Labourdonnais Hotel, Port Louis, Mauritius, from 18 to 20 June 2007.
2. The Symposium was attended by 39 participants from the Indian Ocean region and 17 resource persons. A list of participants and resource persons is attached as an Appendix at the end of this report.
3. The Agenda for the Symposium is attached as Appendix S1.
4. The list of documents is attached as Appendix S2.

OPENING OF THE SYMPOSIUM

5. Mr Rajendranath Mohabeer, Officer in Charge, IOC, Quatre Bornes, Mauritius, called the Symposium to order. He highlighted the importance and timeliness of the meeting for countries in the Indian Ocean, noting the central role played by port State measures in combating illegal, unreported and unregulated (IUU) fishing. He invited each speaker, in turn, to make a statement on behalf of his/her organization.
6. Mrs Monique Andreas Esoavelomandroso, Secretary-General, IOC, Mauritius, addressed the Symposium. Her statement is attached as Appendix S3.
7. Dr David J. Doulman, Senior Fishery Liaison Officer, FAO Fisheries and Aquaculture Department, Rome, Italy, presented a statement on behalf of Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries and Aquaculture Department, Rome, Italy. The statement is attached as Appendix S4.
8. Mr Alejandro Anganuzzi, Secretary, IOTC, Victoria, Seychelles, made a statement to the Symposium. It is attached as Appendix S5.
9. Mrs Claudia Wiedey Nippold, Head of Delegation, European Commission, Port Louis, Mauritius, presented a statement to the Symposium. Her statement is attached as Appendix S6.
10. Ms Krishnawtee Beegun, Senior Chief Executive, Ministry of Agro-Industries and Fisheries, Port Louis, Mauritius, made a statement on behalf of the Honourable Arvin Boolell, Minister for Agro-Industries and Fisheries, Mauritius, and declared the Symposium open. The Minister's statement is attached as Appendix S7.

BACKGROUND AND FRAMEWORK

Chairperson/Facilitator: Mr Rajendranath Mohabeer, Officer in Charge, IOC

11. Mr David Ardill, Regional Coordinator, IOC MCS Project, Quatre Bornes, Mauritius, made a presentation providing an introduction to, and background information on, the Symposium. He addressed issues relating to fisheries management, emphasizing the role of monitoring, control and surveillance (MCS) and the characteristics of Indian Ocean fisheries. He also outlined priorities that had been established by IOC States, leading towards a greater emphasis on port State measures, as well as the development of tools on remote sensing tools, the harmonization of licensing and penalty levels, a ban on at-sea transshipment, the enactment of Lacey Act-type provisions, compulsory vessel marking, vessel monitoring systems (VMS) for all vessels operating in the region irrespective of whether they were licensed or not, a regional listing and new information systems including inspection and infraction databases. He concluded that port State measures were particularly relevant and effective for foreign offshore fisheries.

12. Ms Judith Swan, Legal and Policy Consultant, IOC, Quatre Bornes, Mauritius, described the rapidly expanding global recognition on the value of port State measures to combat IUU fishing. She noted that much of the momentum for strengthened and harmonized port State measures has been generated through FAO. One stream of activity, including expert and technical consultations, culminated in the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing and agreement to develop a binding international instrument. Another stream of activity was initiated through the FishCode Training and Awareness Project, which designated port State measures as a focus for its activities. Support for the activities has been provided by the Government of Sweden and Norway. Ms Swan also drew the Symposium's attention to relevant FAO publications available for distribution at the Symposium which described the objective of the FAO training and awareness initiatives, landmarks in the development of port State measures, essential references and the FAO Model Scheme on port State measures. A FAO multimedia presentation emphasizing the important role of the port State was then made.

13. It was pointed out in discussion that with the increasing trend towards transshipment at sea by small longliners operating in the Indian Ocean as a means of reducing port State visits, the problem of dealing with IUU fishing was being shifted to the market State. The Symposium agreed that at-sea transshipment encouraged IUU fishing and that market measures, including traceability, would play an increasing role in combating IUU fishing. However, it was recognized that the complexity and extent of IUU fishing meant that solutions would require a combination of flag State, port State and market measures to address the problem rather than reliance on a single measure.

14. Dr David J. Doulman made a presentation entitled "International Framework for Port State Measures to Combat IUU Fishing: Current and Evolving Approaches". Its purpose was to provide an overview of the international framework for port State measures for fishing vessels, showing how these measures had evolved primarily to support improved fisheries governance and goals of long-term sustainability. The presentation also outlined why port State measures had assumed an increasingly important role, concurrent with the international concern about IUU fishing and explained planned future FAO developments to strengthen port State measures through the development of a legally-binding instrument. In its conclusion, the presentation noted that IUU fishing remained a serious impediment to

sustainability in fisheries and that ongoing political commitment was required to underpin measures that would inhibit or prevent financial flows to IUU fishers, the main incentive to engage in IUU fishing. In combination, the use of market-related and port State measures probably offered the best opportunities to achieve this goal. In addition, the presentation pointed out that the use of minimum standards in a binding instrument on port State measures could assist countries revise and strengthen both their policy and legislation in a timely manner.

15. Mr Terje Lobach, Special Adviser to the Directorate of Fisheries, Bergen, Norway, gave a presentation on the FAO Model Scheme. He described the elements of the Scheme, focusing on the scope and application, prior notification requirements, possible actions based on such a notification, formal requirements for inspectors, execution of inspections, actions related to IUU fishing and exchange of information. Furthermore, he talked about some current regional schemes, in particular the newly adopted North East Atlantic Fisheries Commission (NEAFC) Scheme, which put emphasis also on the flag State, as no landing or transshipment in port States is allowed unless the flag State confirms in writing that the fish was caught within a sufficient quota, that the quantities had been duly reported, that the vessel was authorized to fish in the area of capture and that the presence in that particular area had been verified by VMS data. He also described links with other MCS tools, such as “black” and “white” listing of fishing vessels, and regulation of transshipment, as well as trade/markets-related measures. Finally, he suggested and described some elements that could be included in the foreseen globally binding agreement. The justifications for a global agreement were that a number of port States were not members of a regional fisheries management organization (RFMO) and that there were regions where RFMOs were unlikely to be established, regions where existing RFMOs dealt only with specific species and regions where port control might involve more than one RFMO.

16. Following the presentations, the issue of transit by fishing vessels through exclusive economic zones (EEZs) was discussed and, in particular, whether a coastal State could refuse a fishing vessel permission to transit its EEZ. It was pointed out that while State practice was evolving on this issue, the weight of opinion was that a coastal State could not deny permission to an IUU fishing vessel to transit its EEZ because it would be inconsistent with the 1982 UN Convention on the Law of the Sea. As an intermediate step, it was noted that States could require “blacklisted” IUU fishing vessels to make a port call upon entry to their EEZ. It was also noted that some countries required fishing vessels transiting their EEZs to provide entry and exit reports, although there were currently no specific provisions related to the speed of transit. The meeting agreed that the issue of transit of EEZs by IUU fishing vessels was an important consideration that should be kept under review. This was because they potentially affected a coastal State’s capacity to conserve and manage fish stocks in a sustainable manner, in accordance with their sovereign rights, as required under international law.

17. A question was posed as to whether possible trade-related measures in a global agreement would be consistent with World Trade Organization (WTO) rules. It was noted that none of the current measures, such as multilateral catch documentation and certification schemes, import and export controls or prohibitions had been challenged within WTO. The situation might change, however, if such measures were included in a globally binding agreement. This issue would be addressed at the FAO Expert Consultation to Draft a Legally-binding Instrument on Port State Measures, to be held from 4 to 8 September 2007 in Washington D.C., United States of America.

18. With respect to the burden of proof, it was pointed out that in most instances, RFMOs required vessels to demonstrate that they had not engaged in IUU fishing. It was observed that the FAO Model Scheme, that took inspiration from the 1997 North East Atlantic Fisheries Organization (NAFO) scheme, denied landing and transshipment of catches that had been taken inside an RFMO convention area or not in conformity with the RFMOs conservation and management measures. However, it was noted that a vessel could fish in a RFMO convention area for unregulated species so long as certain conditions were met.

19. Mr Alejandro Anganuzzi made a presentation on the “Indian Ocean Tuna Commission: the framework for management of fisheries for large pelagics”. He outlined the structure and membership of the Commission, the status of tuna stocks subject to management and conservation measures adopted, measures against IUU fishing operations, measures for port inspection and data collection, including the port inspection scheme and the reasons why most port States in the Indian Ocean did not yet have effective port control schemes. In conclusion, Mr Anganuzzi highlighted the strengths of regional port inspection schemes.

20. Dr Colin Barnes, IOC MCS Project Consultant, Quatre Bornes, Mauritius, made a presentation entitled “Indian Ocean fisheries: their economic contribution”. He explained issues related to employment, food security, raw material for processing, port expenditure, fishing agreement and licence fees. The presentation considered, in particular, the economic contribution of fisheries, with a particular emphasis on tuna and tuna-like species and their contribution to economic development in the Indian Ocean Commission member States. Port State measures were considered vital in controlling IUU fishing which, in the long-term, would deplete resources and have negative impacts on IOC member States.

21. The issue was raised as to what was the appropriate access fee level for foreign vessels operating in the region. Noting that studies had been undertaken for Mauritius and the Seychelles, the Symposium was advised that there would be merit in attempting to achieve a degree of harmony across the region with respect to both licence fees and penalties for infractions. Quoting global comparisons, it was suggested that IOC members should apply a fee level of about 5 percent of the value of the catch and penalty levels one hundred times the value of the license fee in the case of severe IUU fishing infractions. Such levels would be generally comparable to those levels prevailing in other parts of the world. However, it was stressed that the parameters upon which the value of catch calculations were based required periodic revision. This was because currency exchange rates, catches and prices fluctuated over time and it was necessary to ensure that fees and penalties remained at realistic levels. It was also noted that there was a need to ensure that there were different penalty levels that could be applied depending on the seriousness of the offence.

22. Ms Natasha Slicer, Compliance Administrator, Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), Hobart, Australia, made a presentation entitled “Indian Ocean fisheries and port State measures”. It provided a general overview of CCAMLR’s mandate, the Commission’s fisheries and its IUU fishing problems. It also outlined the measures adopted by CCAMLR to combat IUU fishing for toothfish, particularly with respect to the Catch Documentation Scheme (CDS). Ms Slicer addressed problems facing CCAMLR’s CDS with respect to misreporting of catch originating from the Indian Ocean sectors in the early days of the implementation of the CDS. The presentation concluded by discussing how these problems were addressed, showing that the CDS had contributed to the decline in IUU fishing in the CCAMLR Convention area.

23. Mr Gerard Domingue, Senior Manager-MCS, Seychelles Fishing Authority, Victoria, Seychelles, presented a statement on behalf of the Chairperson of the South West Indian Ocean Fisheries Commission (SWIOFC). It noted that the Commission had discussed the issue of regional MCS at its last session in Maputo in August 2006 and that its members were acutely aware that there was significant IUU fishing in the South West Indian Ocean. This illegal fishing activity undermined the ability of coastal States to manage the fisheries resources of their EEZs, and competed with legitimate fishing activity. It was also a most immoral activity, stealing from poor, developing and even least-developed coastal States that were striving hard to feed and provide employment for their people.

24. Mr Domingue continued that the SWIOFC Bureau attended the last two steering committee meetings of the IOC-MCS Project and welcomed this initiative between IOC, FAO and IOTC. Eventually, the regional adoption of harmonised and complementary port State measures would be a major element in the fight against IUU fishing in the South West Indian Ocean. This Symposium and the subsequent Workshop would raise awareness and build capacity in developing coastal States, which was an important step in the right direction. He concluded that SWIOFC had thus been pleased to support the participation of those of its members that were not part of IOC or IOTC, and looked forward to further regional collaboration in the fight against IUU fishing.

25. Following the presentation, it was noted in discussion that the ports most recently used for the unloading of catches of toothfish taken by IUU fishing vessels were in Indonesia, Malaysia and Singapore. It was noted that the beneficial owners of these vessels had changed very little over the past decades and that owners were reflagging vessels to new flags such as Equatorial Guinea, North Korea and Togo. These flags were not the traditional flags that had been used by the IUU fishing vessels for toothfish in the past. It was noted that tracing the genuine owners of IUU fishing vessels had become an increasingly difficult process as owners were now using more complex company structures and foreign shelf companies to conceal the true ownership interests.

26. The Symposium was advised that vessels could only be removed from the CCAMLR IUU Vessel List if they had a genuine change of ownership and the flag State was able to prove that there was no link between the previous owner and the present one. The only other reason for removing an IUU fishing vessel from the IUU Vessel List was if they had been destroyed or sunk. Vessels that were under apprehension remained on the IUU Vessel List until their future had been decided.

27. It was observed that when IUU fishing vessels were denied access to ports in a region this would most likely increase their operating costs, reducing the incentive to engage in IUU fishing. Regional action to harmonize port State measures could be an important means of “freezing out” IUU fishing vessels, prompting them to move their operations elsewhere, to desist from fishing or opting to operate in a legal manner.

LEGAL TOOLS AND MECHANISMS

Chairperson/Facilitator: Mr David Ardill, Regional Coordinator, IOC MCS Project

28. Ms Judith Swan, in a presentation, described the way forward in strengthening port State measures through treaties, trends in fisheries governance at regional level and certain tools. In addressing treaties, she reviewed fisheries instruments as well as the instruments and

arrangements of the International Maritime Organization (IMO) in respect of merchant vessels. She emphasized the value of integrating fisheries with other measures taken by the port State. Ms Swan also described the trends in strengthened regional governance, including the rapid increase in the number of RFMOs and the steps all organizations were taking in respect of port State measures and related areas. She referred to the RFMO performance review initiatives and gave an example of a regional port control scheme. The MCS tools used by RFMOs that could be linked to port State measures were described, specifically those relating to documentation, trade and flag State responsibility. In addition, Ms Swan reviewed global databases at FAO, including existing databases and initiatives covering VMS and a global record of fishing vessels. The other international and interregional developments were described, including the International MCS Network and the joint meetings of the tuna RFMOs.

29. Mr Blaise Kuemlangan, Legal Officer, Development Law Service, Legal Office, FAO, Rome, Italy, made a presentation on the US Lacey Act, now known as the Lacey Act Amendments of 1981, and the potential for enactment of similar types of legislation as a tool in the suite of port State measures to help in the fight against IUU fishing. He noted that the essence of a Lacey Act offence, particularly the “trafficking” type of offence, involved the import of species, including fish illegally taken in contravention of another State’s laws (i.e. the underlying violation). This Lacey Act or Lacey Clause offence was analogous with the crime of receiving stolen art, which in itself, was a serious offence. He remarked that the possibility to legislate a Lacey Act-type clause in the Pacific Islands region was discussed at the regional level but the enactment of legislation was done unilaterally by individual members of the Pacific Islands Forum Fisheries Agency (FFA). In legislation, issues such as giving a broad meaning to the word “import” and “persons” were important.

30. Mr Kuemlangan also gave an account of Papua New Guinea’s first case against an offender charged with violation of its Lacey Clause. He cited the issues that were raised in the courts and which prosecutors would have to be aware of when prosecuting this type of offence. He stated that success in trial required proper preparation, securing sound evidence and use of experts and aids to present a convincing case. He remarked that issues such as proving the existence of foreign law which was violated (i.e. the underlying violation) and a keen awareness of the applicable rules of evidence were important for successful prosecution.

31. Mr Marcel Kroese, Consultant, Grahamstown, South Africa, made a presentation entitled “Port State measures: where they fit into an MCS strategy”. He pointed out that South Africa had been an international fisheries transshipment port since the development of the deepwater tuna long-line fishery, initially by the Japanese and later by other countries. With the development of the toothfish and swordfish fishery in the region, concern was raised as to the verification of the origin of the catches, as both these species occurred in South African waters. Port State measures were implemented through the Marine Living Resources Act, Act 18 of 1998, which allowed for the regulation of a wide range of activities. A policy was implemented that required a vessel to apply for a gear permit per entry to South African Ports. Vessels were required also to provide a letter from the flag State indicating that the vessel was participating in a monitored and controlled fishery. Vessels were evaluated in terms of a decision matrix, based on the area of operation, the species and the gear type. For example, fishing vessels catching species not found in the South African EEZ, or using gear not relevant to South Africa, such as squid jiggers, were issued permits almost upon application. Vessels targeting species occurring in the South African EEZ had to provide verifiable position reports of their area of fishing. If vessels did not have VMS, the data

network identifier (DNID) of their satellite communication unit was obtained by the Fisheries Monitoring Centre. Vessels were then monitored via VMS to verify their catches. The cost of an application for a gear permit was nominal at US\$ 50, but sufficient to offset the costs of the VMS communication and administrative costs as more than 1 000 vessels were licensed annually.

32. Mr Kroese added that, although port State measures might be effective, they could be undermined by vessels changing their behaviour: for example, using transshipment at-sea instead of in-port. Also, once transhipped onto a refrigeration vessel, the fish became “cargo” and generally was no further inspected again upon entry into another country. It was pointed out that particular attention to the origin of fish transhipped to reefers should be paid by marketing and/or processing States. Ultimately, end-user acceptance of the product in terms of traceability would be the ultimate market State measure, where market forces would turn against IUU-caught fish.

33. Mr Kroese explained that as an example of port State measures and its use of the Lacey Act-type provisions was the case against Houtbay Fishing Pty. Ltd, a South African company that illegally exported toothfish and south coast and west coast rock lobster to the USA. Using port State measures and customs provisions, the cargo was intercepted in the USA. The documentation of the consignments was not correct and, based on the discrepancy between import and export documents in South Africa and the USA, a criminal case was instituted against Houtbay Fishing Pty. Ltd and its parent and sister companies in the USA, resulting in the closure of the company and the forfeiture of its assets. He pointed out that gaol sentences and substantial fines had been handed down to the directors of the companies involved. In addition, the bilateral cooperation between South Africa and the USA extended to include the sharing of the forfeiture and fines.

34. Finally, Mr Kroese stressed that Port State measures are part of the MCS tool kit. It was important to undertake a risk assessment to determine the threat against fishing of the country or the region. He reiterated that port State measures should be targeted at fisheries where they would be most effective.

35. Following the presentations, it was emphasized that RFMOs determined the process and objectives for their performance reviews according to their needs. For example, it was pointed out that recent performance reviews by two RFMOs had focused on different issues, including updating the convention and on management.

36. It was noted that confidentiality for VMS reports would be essential, but current thinking in some areas recognized that standards need to be relaxed due to new technology. For example, satellites unrelated to fishing vessels can easily detect fishing effort. In some places, the expanded use of VMS for management, scientific and search and rescue purposes is being developed. However, it was pointed out that the traditional approach considered confidentiality to be essential in order to safeguard information viewed by industry as commercially valuable. It was noted that in order to make full use of these data they should be made available to fisheries managers and enforcement agencies. In certain cases, these data could also be shared with the authorities of neighbouring countries and RFMOs if there were no legal obstacles. In both these situations, safeguards were currently necessary to prevent breach of confidentiality.

37. It was further noted that the regional memoranda of understanding (MoU) of the IMO system had been considered in FAO consultations on port State measures, but that it was ultimately agreed to recommend that RFMOs provided the best regional mechanism for implementing port State measures. However, this position did not preclude future consideration of regional MoUs if these were considered appropriate and necessary (e.g. in a situation where there was no coverage by a RFMO).

38. The Symposium expressed considerable interest in the application of Lacey Act-type provisions. The Papua New Guinea and South African experiences showed clearly that countries could benefit significantly from having such provisions in their domestic legislations. It was noted that it was not necessary to have the cooperation of a second country in order to enforce national legislation relating to the Lacey Act-type provisions, although bilateral arrangements with other countries could also be considered, with the possibility of sharing the proceeds resulting from successful prosecutions.

39. In the Papua New Guinea case study, it was observed that the offending vessel had two certificates of registration onboard, one of which was a temporary registration. It was queried whether parallel registration of fishing vessels was legal. If it was legal, it was pointed out that such registration could create significant MCS problems for coastal and port States as IUU fishers could take advantage of the situation. It was also noted that some vessels, especially those involved in charter arrangements, had parallel registration to accommodate operations where they fished each year in different oceans under the flags of different States and in the convention areas of different RFMOs. In this context, it was noted that some registrations were issued on a temporary basis.

40. It was pointed out that few countries had Lacey Act-type provisions in their national legislation although there was an indirect reference to them in the IPOA-IUU (see paragraph 18 and 19 relating to State control over nationals). It was also noted that the 2006 report of the High Seas Task Force on IUU Fishing encouraged countries to consider introducing Lacey Act-type provisions into their national legislation as a means of combating IUU fishing and enhancing port State measures.

41. The Symposium reiterated the importance of harmonizing port State measures to combat IUU fishing in the Indian Ocean and encouraged countries to strive to work together for this goal.

42. Mr Philippe Cacaud, IOC-MCS Project Consultant, Quatre Bornes, Mauritius, made a presentation concerning the analysis of the existing fisheries legal framework in IOC member countries (Comoros, Madagascar, Mauritius and Seychelles). Its purpose was to update and harmonize fisheries legislation, including the possible introduction of Lacey Act-type provisions. The presentation addressed legal issues in their regional context and provided a summary of the legal work undertaken within the framework of the IOC-MCS Project, including additional work that remained to be undertaken. Areas of possible harmonization included flagging of fishing vessels, MCS measures, port State measures, enforcement/powers of authorized officers and sanctions and penalty schemes. Obligations placed on foreign fishing vessels using the IOC ports included advance notification, vessel markings and VMS reporting to the port State while in its EEZ, information on the vessels, inspections and sanctions being exchanged regionally. Obligations placed on foreign fishing vessels using IOC ports included advance notification, adequate vessel markings, VMS

reporting to the port State while the vessel is in its EEZ as well as regional information exchange on inspections, sanctions and the vessels themselves.

43. Mr Kyle Hurst, Manager, Vessel Monitoring Systems, Pacific Islands Forum Fisheries Agency (FFA), Honiara, Solomon Islands, presented a case study concerning the trial in the High Court of Fiji in 2006 where VMS data had been used to prove an offence of IUU fishing. This case attracted international interest due to the fact that it was a change from the normal use of VMS data that was usually limited to time and position, not activity (i.e. fishing). It was explained that the case involved a Taiwanese-owned, Belize-registered and Fijian-chartered longline vessel that had a license to fish in the Fijian EEZ. However, it was noted that the vessel had illegally fished inside Fiji's archipelagic waters that were not included in the EEZ and were protected for the use of domestic fishers. Using the VMS data, the vessel was apprehended. The prosecution utilized the VMS information as evidence, as well as the catch and logbook data that were seized. Mr Hurst added that the vessel had been detected fishing illegally in the archipelagic waters after complaints were received over several weeks from some of the island residents inside these waters. The Fijian VMS officer was able to match the complaints to the VMS data for the vessel "Lian Chi Sheng". The Fijian navy then deployed a patrol craft to intercept the fishing vessel and was guided by the VMS data to the exact position of the vessel. It was boarded and escorted back to Suva and the captain was charged with fishing illegally inside the country's archipelagic waters on the basis that there were only very short excursions outside the EEZ, leading to the presumption that the catch on board originated from within the EEZ.

44. Mr Hurst explained that FFA despatched the FFA VMS Manager to Fiji to support the prosecution of the vessel. The FFA support enabled the prosecution to present the VMS data to the court in a simple, clear and concise manner, bolstering the prosecution's case that resulted in a FJ\$66 000 fine and forfeiture of the vessel and catch to the State. The fine levied by the Court was paid by the domestic charter company based in Suva. This case demonstrated the value of the use of VMS data when utilized and supported effectively.

45. Following the presentations, it was explained that the revision of the legislation for IOC members was forward looking, taking account of the obligations contained in instruments such as the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement, as appropriate, even though some of the client countries may not currently be involved in activities such as licensing vessels to fish on the high seas, but were justified by State practice.

46. In relation to the issue of compounding of violations, it was pointed out that it was essentially an administrative procedure alternative to judicial procedure. It was noted that compounding of violations was a particularly efficient and transparent means of levying fines and was especially valuable when judiciaries experienced considerable delays. It was pointed out in discussion that in the Pacific Islands region and South Africa, compounding had been very effective in cases involving fines of up to US\$1.0 million. With respect to penalties and the need to ensure that they remained realistic and acted as disincentives to engage in IUU fishing, it was suggested that the penalty levels be included in regulations rather than the Act itself so that they could be revised from time to time without major difficulty.

47. Noting that the IOC members had been considering the inclusion of Lacey Act-type provisions in their domestic legislation, the Symposium was advised that members had sought additional information about how these provisions operated and how they were used

in other countries. Initially, one member had expressed the desire to have reciprocal arrangements with other countries in the region. However, it was now clear that discussion was moving forward on the merits of having Lacey Act-type provisions in national legislation and that this Symposium had significantly contributed to a more detailed and comprehensive understanding of how the provisions were applied and the benefits that might be anticipated.

48. The question was raised as to whether VMS tampering was a significant problem in the Pacific Islands. It was explained that tampering of a “high-tech” nature was not common, but the changing of VMS units was common. This mainly involved the swapping of old units for new units and this information was not communicated to FFA. However, in the forthcoming registration year for all fishing vessels in the region (starting in September 2007), FFA would enforce strictly the minimum terms and conditions of licensing for foreign fishing vessels to ensure that VMS tampering of any type will not be tolerated. This would mean that in cases where tampering was proven, vessels would not be registered or re-registered on the regional vessel register of foreign fishing vessels, precluding them from obtaining licences to fish in the region.

49. Mr Per Erik Bergh, Consultant, Department of International Development, London, United Kingdom, made a presentation entitled “SADC/DFID Fishing Programme: an African policy process aimed at tackling IUU Fishing”. He advised the Symposium that in 2002 the Ministers responsible for marine fisheries in the Southern African Development Community (SADC) resolved to find regional solutions to the growing plague of IUU fishing. The recent involvement by the Ministers responsible for fisheries in Namibia and the United Kingdom, in the International High Seas Task Force on IUU Fishing, provided an opportunity for the UK Government to cooperate and support the SADC region in this initiative.

50. Mr Berg added that the UK Government through the Department for International Development (DfID) had in cooperation with stakeholders developed a programme of support (USD 1.2 million) that elaborated the goal that “African states will benefit from increasing revenues from their fisheries resources through the elimination of illegal fishing in their coastal waters through more effective sector governance”. The specific purpose of “enabling participating African states to engage in concerted policy action that creates disincentives to fish illegally and manage fisheries more effectively for shared growth” was in line with the SADC Protocol on Fisheries. He continued that the project would culminate with a Ministerial Conference and Declaration, February 2008, to underpin a regional plan against IUU fishing. Namibia had offered provisionally to host the Conference that was expected to adopt a Regional Declaration and associated Action Plan that could be presented at the SADC Summit, August 2008, with funding commitments already in place.

51. Ms Natasha Slicer made a presentation summarizing the cases of toothfish seizures by port or import States. The presentation addressed, in particular, a case prosecuted by the Government of South Korea, using CCAMLR’s conservation measures as the basis of the case. In addition, she noted that Mozambique had been cooperating effectively with CCAMLR by denying port access to vessels that intended to land toothfish that had been harvested illegally.

52. Mr Terje Lobach provided information relating to a reefer vessel that had received illegal catches of redfish from the NEAFC Convention area. The Panamanian flagged vessel owned by a Japanese company and operated by a Dutch company had initially attempted to offload the illegal catch in Morocco but was denied port access and subsequently tried to

unload in Malaysia and Japan, port access being denied in both countries. The cargo was eventually offloaded in Hong Kong. NEAFC blacklisted the vessel. On a subsequent voyage, the vessel with a cargo of legally harvested fish from Alaska was denied entry to European ports and after entering a Moroccan port, the cargo was detained because the vessel was on the NEAFC black list. The owners of the Alaskan fish were unaware of this situation and after carefully examining the situation, NEAFC agreed that a release of the cargo would not be in contradiction with the objective of NEAFC measures. He added that the flag State had failed to cooperate with NEAFC concerning the vessel and it seemed like other States did not wish to provide the vessel with a flag as it was on the NEAFC black list.

53. Following the presentations, discussion focused on clarifications relating to methodology for the estimation of IUU fishing that, because of its nature, was extremely difficult to assess, the loss of revenue to countries when vessels did not come into port and details relating to the SADC Project.

INFORMATION SYSTEMS

Chairpersons/Facilitators: Mr Kyle Hurst, Manager, Vessel Monitoring Systems, Pacific Islands Forum Fisheries Agency and Mr Alejandro Anganuzzi, Secretary, Indian Ocean Tuna Commission

54. Mr David Ardill, made a presentation entitled “Information systems: role and requirements”. He commenced the presentation by noting that fisheries management now required a wide range of information in order for it to be effective. These data could not be handled without computerisation: this had become possible with the availability of relational databases. He added that the development of these systems had become very demanding, which made custom development for a single country problematic, particularly in the long term when support was no longer available. This had led to the development of generic information systems. He pointed out that these systems must be capable of handling the whole range of fisheries, necessary to permit aggregation of data at the national level, including all the tables required for administration of the fishery, such as a vessel registry, modules for logbooks, landings, sampling, licensing, contacts, etc. As these systems were intended for many countries, they must be able to run in different languages. Data exchange between field stations or different countries and the master database required data synchronisation features. In addition, security of the data was important to ensure confidentiality of sensitive data.

55. Mr Ardill continued, advising the Symposium that IOTC had developed such a system called Fisheries Information and Statistical System (FINSS). It was available as an “Open Source” distribution to permit development by a user community. The system was modular, in order to permit the addition of new modules to cater for new requirements, customisable to provide data input screens identical to paper forms in use and capable of generating new codes for species and species aggregates, vessels, etc, in order to avoid “cheating” and handling these new codes when data were consolidated between satellite stations and the master database and between national and regional databases. He stated that with the generalisation of VMS systems, it had become necessary to programme “bridges” between FINSS and the VMS databases in order to be able to crosscheck statistical data and, particularly, to have a single “master” vessel register. Mr Ardill concluded that the FINSS system had the capability to integrate, in future, functions related to monitoring fish after

landing through the processing and export chain and administration of phytosanitary certification.

56. Mr Alejandro Anganuzzi presented a paper relating to IOTC data requirements and operations. It focused on the types of information collected by the Commission (data on fishing outputs, fishing fleets, IUU listing, trade certification schemes and port inspection schemes). He also reviewed the integrated global list of tuna RFMOs (see www.tuna-org.org) that included vessels authorized to fish in each of the convention areas. He advised the Symposium that IOTC had commenced implementing port inspection schemes through a resolution that took effect on 1 July 2006. He also noted that the trade certification scheme, similar in nature to other schemes in the world, was not functioning well at the present time. He added that tuna RFMOs would review trade certification scheme at a meeting in mid-2007 with the intention of enhancing them and improving their efficiency. Referring to other issues, it was noted that IOTC had not experienced problems with the confidentiality of data although the Secretariat's dual role as an enforcer and an informant was sometimes difficult to manage. It was also noted that, with respect to vessels engaged in IUU fishing, flag States did not always respond to allegations made against the vessels and this led to a direct listing of the vessels involved. The IOTC process for the listing of IUU fishing vessels entailed consideration by the Compliance Committee that in turn made a recommendation to the Commission. Looking to the future, he highlighted the importance of regional cooperation and exchange of information on infringements, including the denial of access to port for IUU fishing vessels.

57. Mr Neil Ansell, Technical Adviser, IOC MCS Project, Quatre Bornes, Mauritius, made a presentation concerning the port inspection information system developed by the IOC MCS Project. He expressed the view that the use of the IOTC-developed information system FINSS for handling all data generated by port inspection activities would create a more effective and efficient system both for the port inspectors in the field and also for the senior managers by providing them with a high quality flow of timely information. He pointed out that for the demands of an efficient port inspection information system two new modules had been developed for FINSS. They dealt respectively with inspections and infractions that sourced data from within the vessel registry and the licensing registry within FINSS as well as from other sources such as other regional inspection databases and RFMO "white" and "black" lists.

58. In operational terms, Mr Ansell added that a fisheries inspector would, prior to making an inspection, generate a FINSS Enforcements Report, comprising of a "Vessel details section", a "Pre-boarding section" and a "Boarding section". The vessel details section contained all the known information on a certain vessel that an inspector needed. It also recorded updates to be entered while making an inspection. Furthermore, the MCS Manager could highlight any item he wanted the inspector to pay particular attention to when a certain vessel was next inspected (e.g. VMS automatic location communicators (ALC)). He added that the "pre-boarding" section drew information from multiple sources such as license information (together with a link to an image of the licence and conditions, etc.), details of prior regional inspections (from other countries), sightings (e.g. from coastguards), infractions and observations, as well as details of listings on the IOTC "white" or any RFMO "black" lists. Such information would then be used to ascertain the stringency of the inspection or indeed whether the vessel should be in fact authorized to enter the port. Mr Ansell stated that the "boarding section", like the others sections, acted both as a data collection form and information source. All items in both the "vessel details section" and the

“boarding section” were automatically generated in either English or French depending on the language of the port State, as well as in the language spoken by the vessel captain. Mr Ansell concluded that the full customisation features of FINSS allowed the forms to look identical to the database tables, thus minimizing errors when updating FINSS after boarding as well as comprehensive security measures to be put in place.

59. Ms Natasha Slicer provided a presentation focusing on CCAMLR’s information systems. It discussed developments to improve and strengthen CCAMLR’s CDS with the recently implemented electronic web-based documentation format. It also reviewed the advantages of electronic documentation over the old paper format, notably in speeding up the process and eliminating fraudulent documentation. The presentation also considered how other information collected and stored by CCAMLR could be accessed for national officials to perform their functions effectively.

60. Mr Kyle Hurst provided an overview of the FFA VMS and its use in the Pacific Islands region as well as its application in the implementation of port State measures in FFA member countries. He described the current registered fleet of over 1 100 vessels that were operating in the waters of FFA members and the requirements of the members for foreign vessels to have FFA vessel registration before any national fishing license could be issued. He explained the current upgrades of the FFA VMS that were currently being undertaken and the planned upgrades that would lead to enhanced data integration between the MCS datasets (i.e. VMS, vessel registration, observer, logbook, licensing, vessels of interest, IUU fishing vessel surveillance and violations and prosecutions data) that would enhance the operational effectiveness of these data for FFA members. Mr Hurst also outlined the development of the Electronic Ops Room software that was used as part of the multinational operations in the Pacific Islands.

61. With respect to the implementation of the IOTC catch documentation scheme, it was observed that in the Seychelles it was working reasonably well. It was also noted that direct contacts had been established with some tuna importing States although it was recognized that more work would be required to enhance its efficiency. It was advised in discussion that exporting countries provided the necessary certifications for fish and not IOTC.

62. Clarifications were sought concerning the implementation of FINSS in IOC member countries. The Symposium was advised that it was in the process of being implemented fully in these countries and that it was installed in the Seychelles and Mauritius. Installation in other countries would follow, even though it had been partially implemented already in Madagascar. It was noted that FINSS could be loaded onto a laptop computer and would eliminate the use of paper records. It was also noted that FINSS is provided totally free of charge to all parties.

63. The issue of the export of fish by air was raised in connection with the use of FINSS. It was pointed out that exports by air were not integrated currently into the system but that it would be necessary to do so because of market traceability requirements that were being implemented in many market countries. It was explained that in South Africa, this matter was addressed in national legislation and that all movements of fish in and out of the country had to be covered by a permit, irrespective of the mode of transport. In this regard, it was noted that the CCAMLR CDS also made provision for the air transport of fish.

64. The Symposium focused considerable attention on the use of VMS and the need for its universal installation in the region to prevent poaching in EEZs and to improve fisheries management. In discussion, it was explained that a State could deny port access to a vessel in accordance with the provisions of its national legislation. This matter was a sovereignty issue for the State concerned. It was pointed out also that in some cases, vessels had sought port access on the grounds of force majeure with the intention of transshipping catch once they had gained access to the port. The Symposium agreed that if vessels entered a port on the pretext of force majeure, this would not entitle them to tranship catches unless the integrity of the vessel was affected by the fish onboard.

65. The Symposium was advised that the VMS centres in SADC countries were not performing well, primarily because of difficulties associated with the contracts that had been entered into for the maintenance of software and hardware. This situation made it difficult for SADC members that were also IOTC members to participate fully in the Commission's mandatory VMS scheme that would take effect in July 2007. It was noted that although the IOTC resolution on VMS would soon enter into force, there were considerable gaps at the operational level among IOTC members.

TRAINING: HUMAN RESOURCE DEVELOPMENT

Chairperson/Facilitator: Dr David J. Doulman, Senior Fishery Liaison Officer, FAO

66. Mr Neil Ansell made a presentation entitled "IOC-MSC Project: Port Inspection Training Programme". The presentation gave a brief overview of the main elements of the port inspection training courses implemented by the IOC-MCS Project, including a review of the fishery, national, regional and international legal instruments and frameworks, the inspection of fishing vessels, techniques for information gathering and analysis, evidence gathering and presentation, VMS and the development of reference materials for vessel inspectors. Mr Ansell also highlighted the approaches and methods to be used in the training courses.

67. Ms Natasha Slicer gave an overview of a joint CDS training exercise conducted by Mauritius, Australia and the CCAMLR Secretariat in 2005. The presentation included the need and value of such training as well as general content. The presentation also considered other recent training and capacity-building initiative undertaken by CCAMLR.

68. Mr Kyle Hurst presented a summary of the training that was provided by FFA to its members under FFA Management and Development Projects. He explained that the FFA supported its members through the provision of numerous training programmes and systems, including the development for online training systems. The programmes were intended to build capacity for, and maximize the effectiveness of, personnel in FFA countries as a means of maintaining economic benefits for them and promoting improved fisheries management.

69. The Symposium was advised that FFA had been involved in training for the last 25 years and that it now had considerable experience that might be made available to countries in the Indian Ocean if this was considered relevant and appropriate. It was explained that IOTC could also promote capacity-building and harmonization for its developing members. It was further noted that the Commission had funding for human resource development activities but it required a mandate from its members to proceed. The Symposium encouraged

IOTC members to take this matter up at an early opportunity so that the Commission could instigate capacity-building initiatives for their benefit.

STAKEHOLDERS ACTIONS

Chairperson/Facilitator: Ms Judith Swan, Legal and Policy Consultant, IOC

70. Mr Evert Liewes, Managing Director, Princes Tuna, Port Louis, Mauritius, and Chairman of the Mauritius Export Association Council made a presentation from the perspective of the processing industry. He stressed that because of the complex documentation required concerning the origin of tuna for entry to the EC market, all fish processed in Mauritius, Seychelles, Madagascar and Kenya was legally caught. He noted that the awareness of sustainability issues among tuna consumers in Europe was highly developed and that this situation could have significant implications for processors in the region if consumers decided to boycott canned tuna for whatever reason. He pointed out that in Mauritius 6 000 people were employed in the processing sector that utilized 450 tonnes of fish per day. Mr Liewes expressed the view that there was a need for public education in Mauritius with respect to sustainability issues in fisheries, given the potential consequences that could arise from adverse consumer-led responses in market countries. Mr Liewes added that industry had a role to play in this process, noting that it could seek to impress upon governments the importance of promoting transparent and sustainability policies in fisheries. He concluded by saying that effective communication was a key element in this process and vital for its success.

71. Captain Premananda Ponambalum, Portmaster, Mauritian Port Authority, Port Louis, Mauritius, provided an overview on the management and use of Port Louis harbour. He commenced by reviewing the port and its activities including background information on Mauritius as a strategic port location, the role of the Port Authority, port State measures used, the characteristics of Port Louis harbour and trade data for 2006. He advised the Symposium that 130 182 tonnes of fish was handled in Port Louis harbour last year. He also discussed the evolution of fishing vessels calls to Mauritius and outlined the intended work programme of the port. Although Port Louis is the country's only port, the port master plan called for a new fishing port at Bain des Dames intended for small fresh fish longliners. He also indicated that these vessels did not pay harbour dues at present and created a serious inspection problem for the Coastguard and Customs authorities.

72. Ms Jaqueline Sauzier, Regional Representative of the Earth Island Institute for the Indian Ocean and Africa, President of the Mauritius Marine Conservation Society and member of the Friends of the Environment, Port Louis, Mauritius, discussed relations between government authorities and civil society with respect to fisheries and the environment. She noted that purse seining had a number of severe environmental impacts, particularly in terms of incidental catches but that it was difficult to engage authorities in discussion about the problems. She pointed out that instead of working together in a constructive and forward looking manner, the authorities tended to react only to media pressure. She stressed that civil society was especially concerned about environmental protection and long-term sustainability as promoted in many international instruments. Ms Sauzier underscored the need for authorities to engage civil society in a more effective manner as a means of promoting inclusiveness, transparency and good governance. Calling for greater objectivity, Ms Sauzier also noted that authorities reacted sluggishly to many overfishing issues (e.g. beche-de-mer) and favoured financial interest ahead of those of an

environmental nature. She explained that 90 percent of the tuna companies in the world were now fishing in a dolphin-safe manner and she underscored the need to ensure that other fishing methods did not cause environmental damage. In this regard, MCS was a vital tool and she noted that the EC market was very concerned about resource sustainability and that the private sector should promote sustainability issues as a matter of priority. In conclusion, Ms Sauzier encouraged government authorities and the private sector to work more closely with civil society as a means of ensuring greater resource sustainability while also maintaining a healthy and sustainable industry.

73. Following the presentations, additional information was sought on the operation of Port Louis as a fishing port. It was explained that there had been a large increase in the number of port calls by fishing vessels that had been due primarily to calls from additional vessels rather than repeat calls from existing vessels. This situation was due to increased vessels calls by semi-industrial vessels operating in the Indian Ocean.

74. In relation to the economic benefit generated by port calls from fishing vessels, it was observed that expenditures by vessels generally exceeded revenue derived from fishing license fees. Furthermore, it was noted that in Mauritius, all catch taken in the EEZ by licensed vessels was required by law to be landed at a national port, even though this requirement was difficult to enforce. To maximize benefits for the country and to improve fisheries management, it was proposed that there should be a total ban on the transshipment of fish for all vessels in the region. However, this requirement would have to be addressed by IOTC.

75. The view was expressed that there was scope for increasing considerably the scale of port charges in Port Louis given that they were relatively low vis-à-vis the value of tuna catchers being transhipped in port and other considerations such as the strategic location of the port. It was explained that this matter was currently under review by the Government of Mauritius and that a new scale of fees would be promulgated later in 2007. However, it was pointed out that small vessels transshipping in the port did not generate substantial revenue (vessels under 100 MT were exempt from paying port fees) and that the Government was committed to rebates on port charges as a means of attracting vessels to Port Louis.

76. The Symposium was advised that as a consequence of the implementation of IOTC resolutions in Seychelles, there had been a noticeable movement of vessels away from the country's port to alternative ports in East Africa where it seemed that controls were implemented less rigorously. This underlined the need for applying port State measures uniformly throughout the region.

77. The Symposium agreed that there was scope for improving a consultative mechanism among stakeholders so as to encourage enhanced sustainability outcomes, transparency and greater accountability. In the case of IOTC, it was noted that the level of NGO participation in its sessions was disappointing. It was stressed that, while civil society had an important role to play at the international level, industries and NGOs should not lose sight of the importance of being involved at the national level. It was suggested that the International MCS Network, which promoted real time exchange of information among members, could usefully benefit from input from civil society and that NGOs might seek to become involved in its work.

78. On the issue of sustainability, it was underlined that ethical considerations should be taken into account, especially since resources should be available for use by future generations. A failure by governments to address sustainability effectively could lead to national industries being harmed. The Symposium reiterated that consumer interests and concerns were the driving force behind the success or failure of industry and sustainability and the impacts of fishing on the environment must be addressed. The Symposium agreed that broader stakeholder participation should be encouraged as a means of promoting greater transparency and accountability

CLOSURE OF THE SYMPOSIUM

79. Mr Rajendranath Mohabeer referred to the excellent presentations and lively discussions during the Symposium and thanked participants and resource persons for contributing to its success. He also thanked FAO and IOTC, noting that the partnerships between the organizations were strengthening day by day and it was essential that they not operate in isolation.

80. Mr Mohabeer outlined future actions that would be taken by IOC. Firstly, he underlined the importance of countries working collectively, emphasizing that it was impossible to fight IUU fishing alone. Secondly, he described plans to integrate the outcomes of the Symposium into the IOC MCS Project, adding that the next phase or follow-on project would be expanded to include East African port States. Thirdly, he addressed the drive by IOC to pursue vigorously a regional integration process. Finally, Mr Mohabeer referred to the value of a participatory approach where IOC members, the private sector and NGOs could jointly contribute to its goals. He also expressed the hope that participants had felt a strong sense of contribution to the outcome of the Symposium.

81. On behalf of FAO, Dr David J. Douman extended heartfelt thanks to IOC, IOTC and SWIOFC for their energetic and committed collaboration in organizing the Symposium. He stated that he wished to reflect the deep admiration and respect felt by all participants and resource persons for the roles played by these organizations in the development of port State measures in the region and the high priority accorded to them. He added that it was exemplary and a clear indication of the need to carry the momentum forward.

82. Dr Douman pointed out that the presentations and discussions had been of an exceptionally high calibre, affording both participants and resource persons an in-depth understanding of the many aspects of port State measure linkages to other MCS tools and important precedent through case studies. He thanked the participants and resource persons for their thorough and insightful contributions to the Symposium. He also thanked the secretarial staff, interpreters and assistants who had worked hard behind the scenes to make the Symposium a success. He added that in many respects, the outcomes of the proceedings had exceeded the initial objectives set together with an improved understanding of the current situation and ongoing initiatives and priorities for the future. He expressed the view that participants and resource persons would be leaving the Symposium with a clearer vision as to future developments at national, regional and global levels.

83. Following on from the Symposium, Dr Douman stated that the workshop in the coming days would provide an excellent opportunity for participants to work together in small informal groups, addressing constraints and solutions to implementing port State measures in the Indian Ocean. He noted that participants would also have the possibility to

apply what had been discussed in the Symposium in a challenging problem-solving exercise in the Workshop to follow. He advised the meeting that a report for the Symposium and Workshop would be prepared and be distributed in the near future. In closing, Dr Doulman reiterated thanks to all donors who had supported this very productive Symposium: for FAO this was the Governments of Sweden and Norway. He also recognized the commitment of Ms Judith Swan who, for FAO, had worked hard to ensure that the Symposium and Workshop would be delivered as planned.

84. In his concluding remarks, Mr Alejandro Anganuzzi referred to the broad geographical scope of the IOTC area of competence and the potential impact of port State measures in the region. He emphasized that many of the port States measures and associated MCS tools had already been adopted by IOTC. He encouraged participants to accelerate the process and noted the role of IOTC in facilitating the implementation of these measures and tools in a coordinated regional manner.

85. Commenting on the apparent contradiction between economic goals and sustainability, Mr Anganuzzi noted that only if fishing activities were sustainable would they be profitable in the longer run. He expressed his thanks to the participants and resource persons as well as to IOC and FAO and noted that this was not just another meeting. Rather, the Symposium marked a new beginning for countries and organizations to work together to promote the fulfilment of common fisheries goals in the Indian Ocean.

86. The Symposium closed at 16.00 hours on Wednesday, 20 June 2007.

Agenda

Opening of the Symposium

Background and framework

Legal tools and mechanisms

Information systems

Training and human resource development

Stakeholders actions

Closing of the Symposium

Documentation presented

Agenda

Prospectus

2005 Model Scheme on Port State Measures to Combat IUU Fishing

The following documents were made available to participants at the workshop:

Report of the FAO/FFA Regional Workshop to promote the full and effective implementation of port State measures to combat illegal, unreported and unregulated fishing, Nadi, Fiji, 28 August-1 September 2006

2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

FAO Technical Guidelines No. 9, IPOA-IUU

South Pacific Model National Plan of Action to Combat IUU Fishing (NPOA-IUU)

CD-ROM on the Code of Conduct for Responsible Fisheries

Opening statement
by Ms Monique Andreas Esoavelomandroso,
Secretary General, Indian Ocean Commission

Excellencies of the Diplomatic Corps
Mr Anganuzzi, Executive Secretary of the Indian Ocean Tuna Commission
Representatives of FAO
Ladies and gentlemen

I have the pleasure to welcome you here to the opening ceremony of the Symposium on the Strengthening of Port State Measures in the Indian Ocean which has been organized with the financial and technical support of the IOC, of FAO of IOTC and also of SWIOFC which has facilitated the participation of certain countries.

The objective of this joint action was, as far as possible, to bring together participants from all the coastal countries of the Indian Ocean to exchange experiences on port state measures, as all are concerned by the management of fisheries in this ocean and each has things to learn on what is happening elsewhere.

The Indian Ocean Commission is an intergovernmental agency which involves the Comoros, Madagascar, Mauritius, the Seychelles and France (Réunion). Because of its geographical situation, this necklace of islands in the south-west of the Indian Ocean is strongly oriented towards the sea and its resources, in particular tuna fisheries which bring in 500 million Euro every year to these economies otherwise poor in natural resources.

This specificity explains why the IOC, in the projects that it implements, includes a high proportion of activities linked with the sea and fisheries. Furthermore, this specificity is recognized in the context of the IRCC, a Committee which includes COMESA, EAC, IGAD and IOC, the latter organization being interested with the Coordination of all projects dealing with maritime affairs.

For example, apart from the MCS project which has organized this Symposium, we have in this region a tuna tagging project implemented by IOTC, a regional project for the sustainable management of coastal zones, a programme dealing with protected marine areas and, shortly, a programme dealing with the prevention of oil pollution, as well as a regional plan to coordinate and support national activities in the field of surveillance and control of IUU fishing.

The MCS project, after a detailed analysis of the material and financial capacity of the participating developing countries, has reached the conclusion that the vast extent of the EEZs, larger in area than the 27 countries of Europe, is such that surveillance activities by air or at-sea have negligible chances of being effective in the fight against illegal fishing, and that the cost would be prohibitive. In addition, surveillance of this type would do nothing to help reduce the lack of the information which makes management of fisheries effective and supports decisions for investment and negotiation of access agreements.

The solution selected, therefore, was to substitute to a certain extent the traditional regime of management of fisheries by the Flag State with management by the Port State. It is evident that the success of such a model depends essentially on its application in a large enough area to make it difficult for a fishing vessel to sail to a neighbouring country which might apply a less constraining regime. This explains why it is proposed that all the IOC countries should apply the same measures and why, in a later phase, this regime should be expanded to cover the East African coastal countries.

In order to attain this objective, the MCS project is involved in a revision of the laws governing fisheries in each of its developing country members. It has also established information systems capable of handling the full range of data needed for the administration of fisheries, together with protocols for the transfer between countries of certain of these data sets. Finally, it has been involved in the training of the people dealing with related activities, while giving the trainees the opportunity to see what is happening in neighbouring countries, which can only help to reinforce the understanding between countries of the region.

This Symposium was conceived during a meeting organised in the context of the OECD and of the High Seas Taskforce, an ad hoc organization of Ministers of Fisheries wishing to reinforce international action against IUU fishing, which provided an opportunity for a meeting with the FishCode project of FAO. The advantages of mutually reinforcing activities of the MCS project, of FAO and of IOTC in port state control measures, and of harmonising this regime throughout the Indian Ocean were clearly perceived. In view of the decision taken this year by the FAO Committee on Fisheries to work towards the creation of a binding international legal instrument on port State measures for high seas fisheries, this Symposium can be seen as a forerunner for a the Indian Ocean.

Opening statement
by Mr Ichiro Nomura, Assistant Director-General
FAO Fisheries and Aquaculture Department
Rome, Italy

Excellencies, Ladies and Gentlemen:

It is my pleasure to extend a warm welcome to you on the occasion of the opening of the Symposium and Workshop on Strengthening Port State Measures in the Indian Ocean. This is the second in a series of regional workshops on port State measures that the Food and Agriculture Organization of the United Nations has been involved in convening, and we are indeed honoured to have as our partners for this event the Indian Ocean Commission, through its Monitoring, Control and Surveillance Project, the Indian Ocean Tuna Commission and the South West Indian Ocean Fisheries Commission. These organizations have played a leading role in this region in efforts to combat illegal, unreported and unregulated (IUU) fishing through strengthened port State measures and the development of human capacity to implement those measures.

The positive effect of these initiatives is expected to be amplified through cooperation with the more recently established South West Indian Ocean Fisheries Commission, and the South Indian Ocean Fisheries Agreement.

It was only six years ago that the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) was adopted and two years ago that the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing was endorsed by the FAO Committee on Fisheries (COFI). The Model Scheme was developed as a result of consultations convened by FAO between 2002 and 2004, and COFI urged all FAO Members to give priority to its operationalization the Scheme.

Since then, the international community has intensified its resolve to strengthen port State measures even further. Over the past two years there have been repeated calls in international fora for a binding international instrument on port State measures, to be developed in FAO and based on the IPOA-IUU and the FAO Model Scheme. Earlier this year, the Twenty-seventh Session of COFI established a process that is likely to result in the development of such an instrument. To this end, an Expert Consultation will be held in September 2007 and a Technical Consultation will take place in mid-2008. The next Session of COFI, in 2009, will review the outcome.

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

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

As a result, a growing number of regional fishery bodies (RFBs), mindful of the value of harmonizing and coordinating measures against IUU fishing, are developing, or have adopted, regional schemes and are undertaking human capacity development programmes. Such regional cooperation and coordination will assist greatly in reinforcing national efforts and deterring the operation of “ports of convenience”, where countries are unable or unwilling to apply effective port State measures.

In response to mounting international attention to the essential role of port State measures in combating IUU fishing, support has been provided to FAO by the Government of Sweden through the FishCode Programme, and by the Government of Norway, through the Trust Fund on Port State Measures, to mount a series of regional workshops to develop national capacity and promote regional coordination. As a result of these initiatives it is expected that countries will be better placed to strengthen and harmonize their port State measures. In addition, we anticipate that countries will be able to meet the requirements of relevant RFBs and implement the necessary IPOA-IUU tools and the FAO Model Scheme.

This week, three days will be devoted to a Symposium where participants from approximately 25 countries as well as intergovernmental organizations, industry, non-governmental organizations and other stakeholders will have the opportunity to interact with panels of international and regional experts during discussion periods. A two-day problem-solving workshop for developing countries will then be held to facilitate human capacity development through the application of what was learned during the Symposium.

The Symposium and Workshop will also afford a valuable opportunity to discuss issues that may eventually be considered in the context of a binding international instrument on port State measures. I am anticipating outcomes of a very high standard.

FAO notes the relevant initiatives already undertaken by the MCS Project of the Indian Ocean Commission and the measures adopted by the Indian Ocean Tuna Commission. I extend my thanks to the IOC MCS Project Director David Ardill and Technical Officer Neil Ansell, as well as to the IOTC Secretary, Alejandro Anganuzzi and Deputy Secretary, Chris O'Brien, and all other staff who have worked so hard to assist in the coordination and presentation of this Symposium and Workshop.

Bringing this workshop to fruition has been a true team effort. I also wish to extend my thanks to the South West Indian Ocean Fisheries Commission and the Commission for the Conservation of Antarctic Living Marine Resources for their support and input, as well as the participation of all interested stakeholders. Finally, let me acknowledge the excellent work of our Ms Judith Swan and FAO colleagues in the FAO Subregional Office for Southern Africa in addition to the FAO country representatives for India, Indonesia and Sri Lanka for assisting with arrangements.

I wish you all a full and very productive week at this Symposium and Workshop on Strengthening Port State Measures in the Indian Ocean.

I sincerely regret that because of other commitments I am unable to be with you at the Symposium.

Thank you very much for your attention.

Statement
by Mr Alejandro Anganuzzi,
Secretary, Indian Ocean Tuna Commission
Victoria, Seychelles

It is a pleasure for me to be back among friends one more time, just four weeks after the end of the IOTC Eleventh Session that was so successfully hosted by Mauritius.

As it was clear by the end of that meeting, IOTC is now, entering into its second decade of existence, at a crossroads and facing a number of challenges that will have to be successfully met in order to have an effective and efficient management organization. These challenges cover the whole range of the IOTC process, from the supply of scientific advice to effective compliance mechanisms, including the difficult task of finding a way to include all stakeholders in the management process.

But IOTC is not alone in facing these challenges, as it was demonstrated at the first joint meeting of the tuna RFMOs that took place in Kobe, Japan last January.

There, it was clear that the all tuna RFMOs will be under scrutiny by the international community as to their ability to ensure sustainability in the exploitation of the resources. There is a concerted effort to improve the transparency and performance of all the RFMOs and this illustrates the importance that the protection of these species has for the public at large.

We see that also in the growing interest that important markets are showing to have guarantees that the fishery products that they commercialize come from sustainable fisheries, knowing that the demand for certified products is on the rise.

But what is the best process to take us there? What are the necessary minimum conditions that will lead us to an optimal sustainable use of resources?

Such a management process will have various components, that we can group into three main categories:

1. We need an unbiased, science-based process for assessing the condition of the resource, to provide decision-makers with accurate information as to how far we are from the optimum sustainable levels.
2. We need a transparent decision process by managers that would use that information to take rapid and effective actions when necessary, and negotiations that would ensure equitable distribution of the benefits of the exploitation, and
3. We need mechanisms for enforcement and compliance that would be efficient, transparent and cost-effective from Flag, Port and Market states.

Since its inception, IOTC has worked with various partners on the first component, monitoring and data collection, with well-recognized successes such as the reinforcement of statistical systems in more than a dozen countries, and the regional tagging programme that is now entering into its final stages.

But there is a large amount of work to be done to reinforce compliance mechanisms, in particular, ways to deter illegal, unregulated and unreported fisheries. In the last ten years, IOTC has passed more than 50 resolutions and recommendations to support the conservation efforts, but if these are not implemented effectively, sustainability will be little more than a dream.

Port State measures are an extremely important part of these efforts. They are cost-effective and they play a key role in monitoring the legal fishing activities as well as in the combat of illegal activities.

We are here this week to work towards developing a much needed integrated framework for port State control, by looking at various technical aspects with the support of internationally recognized experts in the field.

We hope that this will not be just another meeting, and that in the future it will be remembered as a key step in establishing a harmonized, well-coordinated compliance system in the Indian Ocean.

But, for that to be the case, we will also need the long-term political commitment from all the stakeholders, commitment that comes from the understanding that future generations will benefit from our ability to manage resources properly today.

In closing, I would like to acknowledge the renewed partnership that we maintain with IOC in different areas, we have found a good convergence of interests that resulted in fruitful joint work in the past few years. I would also like to welcome the contribution of FAO, bringing us the experience of the Model Scheme, and now taking the lead in developing new binding global legal instruments for more effective port state control.

Thank you very much

Statement
by Ms Claudia Wiedey Nippold,
Head of Delegation, European Commission

The Honourable Minister of Agro-Industry and Fisheries
 Votre Excellence l'Ambassadeur de France,
 Your Excellency the British High Commissioner,
 Your Excellency the Secretary General of the Indian Ocean Commission
 Distinguished representative from FAO
 The Executive Secretary of the Indian Ocean Tuna Commission,
 Distinguished Guests, Ladies and Gentlemen

It gives me great pleasure to join you today for the opening ceremony of this Symposium on Strengthening Port State Measures in the Indian Ocean. The Symposium is the result of collective effort by the Food and Agriculture Organization (FAO), the Indian Ocean Tuna Commission (IOTC) as well as the Indian Ocean Commission (IOC). I am especially delighted to see a large number of participants from the region, which should ensure very fruitful discussions.

It is well known that fisheries and marine resources are essential to the economies of the Indian Ocean countries. The export of fish and a variety of fish products to third countries generate important revenues for most of the Indian Ocean island states. They are also a principal source of foreign exchange. In addition, fish and fish products are vitally important as an essential source of protein and therefore crucial for improving the region's food security.

The question that all countries have to ask themselves is how we can make the best use of the oceans and seas to boost economic development without endangering the fragile environments. The European Union's fisheries policy emphasises the long-term conservation and sustainable development of marine resources. Those principles, reflected in many of our initiatives and legislation, are also the foundation for policy dialogue with our partners. The European Union has evaluated its own Common Fisheries Policy to address the current challenges and is also actively supporting developing countries in their efforts.

I would now like to give you an overview of our cooperation in the Indian Ocean region, where we have a significant presence in the conservation of fisheries resources and the sustainable management of the marine environment at large.

The three projects which are currently ongoing are complementary and address a range of critical issues. The overarching aim is to strengthen the coastal communities' capacities to encourage more revenues from fisheries and marine resources. Building awareness and know-how of sustainable management is a crucial part of these efforts.

The first of the three programmes is:

- The Regional Tuna Tagging Programme (€ 14 million) which is the world's largest programme of its kind. The team has already managed to tag over 125000 tunas – far more than first expected. The quality and quantity of scientific information generated by this Programme will in the near future be crucial for accurate management of tuna stocks within the Indian Ocean.

The second programme is:

- The Pilot Project for Monitoring, Control and Surveillance (€ 4.0 million), which aims to improve fisheries resource management by defining and testing conditions for regional collaboration.

And the third programme is:

- The Programme for the Sustainable Management of Coastal and Marine Resources in the South West Indian Ocean. It is the largest regional programme that the EC has with the IOC (€ 18 million). The aim of the Programme is to strengthen the capacities of coastal and island states to formulate and implement environmentally-sound policies to better manage their marine resources.

In addition to these programmes, which are funded under the European Development Fund, the European Union has also signed bilateral Fisheries Partnership Agreements with several Indian Ocean countries.

Fisheries Partnership Agreements address issues which are of common interest to the ACP and European countries alike, such as the fight against Illegal, Unreported and Unregulated (IUU) fishing. It poses a serious problem for the sustainability of fisheries resources in general and in the Indian Ocean in particular. I would like to reiterate that such (IUU) fishing practices result in the loss of both short and long-term social and economic opportunities and also pose negative effects on food security and environmental protection.

The European Commission welcomed the signature of the Ministerial Declaration in early 2007 for Combating Illegal, Unreported and Unregulated (IUU) Fisheries in the Southwest Indian Ocean as well as the agreement of the Indian Ocean Commission Member States to establish and implement a "Regional Plan for Fisheries Surveillance in the Southwest Indian Ocean" which will be financed by the European Commission over the next three years. I am pleased to tell you that the plan has already been put into action. The Coordinator has been selected and the activities will start in August.

I also wish to tell you that the EC intends to produce an updated and modernised strategy for the fight against IUU fishing. Consultations have been launched inviting key stakeholders to share their views and experiences of IUU fishing and means to combat it. At the end of the consultation process we aim to propose a new set of regulations, building on the current strategy, to reinforce our efforts in this area.

I would now like to come back to the specific topic of the Symposium. The EC has been actively involved in the setting up of a model port State scheme, led by FAO, adopted in 2005. The EU fully supports the principle of having an internationally-binding instrument based on the Scheme. In addition, the EU remains at the forefront of discussions relating to programmes of port inspections with several IOTC regulations being initially proposed or fully supported by the EC. I should add that tangible outcomes of our cooperation are already visible. Within the Regional Pilot Project on Monitoring, Control and Surveillance (MCS) of large pelagics in the Indian Ocean, key activities relevant to this symposium are being implemented and will most probably be discussed during this week. Amongst these activities, I would like to highlight the EU support to the Indian Ocean Commission Member States in updating their national fisheries legislation, training for Port Inspection, as well as the recent establishment of a Vessel Monitoring System in the Comoros. I sincerely hope that under the 10th European Development Fund the region succeeds in realising a bigger project to combat IUU fishing to cover a larger geographical zone.

Before concluding, I would like to take this opportunity to reaffirm the EU's commitment to work within the framework of the Indian Ocean Tuna Commission in the sustainable management of tuna and tuna-like species in the Indian Ocean, and objective that will be difficult to achieve if main players involved in the fishery are not bound by to the IOTC's management rules.

The fisheries sector offers vast potential for economic growth. But we need to address the challenges which are ever present and threaten the vulnerable ecosystems of the seas and oceans and consequently the future outlook of the sector as a whole. We need a joint commitment and a long-term vision to protect the region's fisheries and marine resources. I hope that this symposium is a valuable step forward in those necessary efforts.

I would like to end by wishing all the participants a successful symposium and workshop.

Thank you for your attention.

Statement
by the Honourable Arvin Boolell,
Minister for Agro-Industries and Fisheries, Mauritius

The Head of EU Delegation, Mrs Claudia Wiedley
The Secretary General of COI, Mrs Monique Andreas Asoavelomandroso
The Executive Secretary of the IOTC, Mr Alejandro Anganuzzi
The Regional Coordinator of the MCS Project, Mr David Ardill
Excellencies
Distinguished Delegates
Ladies and Gentlemen

It gives me immense pleasure to be among you this afternoon for the opening ceremony of the Symposium and Workshop on Port State Measures which is being conducted under the aegis of the Indian Ocean Tuna Commission (IOTC) and FAO from 18 to 22 June 2007.

This Workshop is in line with the aspirations of the Developing States especially Coastal States to develop Port State Measures in order to reinforce monitoring of activities of fishing vessels. Presently it is estimated that about 10 percent of the tuna catch of the Indian Ocean is caught by IUU fishing vessels. This problem if not curtailed or stopped may cause irreversible damages to fish stocks and their sustainability.

Tuna resources are of paramount economic importance to the countries of the Indian Ocean. The total catch of tuna and tuna like species in the Indian Ocean amounts to about 1.4 million tonnes annually. Out of this, foreign fishing vessels operating in the Indian Ocean land around 850 000 tonnes which have a market value estimated at about two billion Euros. Tuna stocks also constitute the single largest marine resource available to the small island states of the Indian Ocean.

I wish to point out that as a small island developing State, Mauritius is fully committed to the sustainable development of marine living resources and responsible fishing. In this context, my Ministry has taken several measures which are in line with the FAO Code of Conduct for Responsible Fisheries and the FAO International Plan of Action to combat IUU fishing. Mauritius is one of the first countries to have become a member of the Indian Ocean Tuna Commission.

We have also adhered to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and the Agreement related to the Conservation and Management of Straddling and Highly Migratory Fish Stocks of the United Nations Law of the Sea. Furthermore, as a responsible port state we have adhered to the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), in spite of our limited resources in order to contribute to the struggle against IUU fishing in the southern Ocean.

One of the most recent measures we have taken is the setting up of a Vessel Monitoring System with a Fishery Monitoring Centre at the Albion Fisheries Research Centre of my Ministry. This was coupled with the enactment of the appropriate regulations to enforce the VMS. These measures enable my Ministry to be in a better position to monitor fishing activities in our waters, noting that the control of IUU fishing in our vast EEZ is not an easy task.

We are presently reviewing our Fisheries and Marine Resources Act and we shall come up shortly with a new legislation which will reinforce our international obligations in the implementation of fisheries management and conservation measures and improvement of our capacity to combat IUU fishing.

A special unit has been set up at the port to monitor all fishing vessels calling at Port Louis. These vessels have to submit data which include vessels characteristics, catch, effort and fishing areas. Besides, licensed vessels have to submit fishing logbooks and as a control measure, logbook data are crosschecked against those through the VMS to ensure the veracity of information submitted.

Mauritius is also participating in the Regional Pilot Project for Monitoring, Control and Surveillance being implemented through the Indian Ocean Commission which is establishing a port state control regime targeting IUU fishing and harmonizing and updating legislations of the member states among others.

Furthermore, Ministers responsible for fisheries of the Indian Ocean Commission made a declaration in Seychelles on 24 January 2007 calling member states to, among others, implement a ban on all tuna transshipment at sea, deny access to port of IOC members states to any vessel not compliant with international fishery management measures and harmonise legislation to set up a standard fishing infringement system.

The FAO has proposed that a Model Scheme for Port State Control should be adhered to which spells out the different steps to be taken to have effective port state control in order to combat illegal, unreported and unregulated fishing.

Under the scheme each port state should among others (i) carry out inspections of foreign fishing vessels in its port for the purpose of monitoring compliance with relevant conversation and management measures and (ii) follow procedures for carrying out inspections relating to the catch, gear, equipment and any other relevant document.

Where there is evidence that a fishing vessel has engaged in IUU fishing e.g. fishing without a valid licence of the flag state and failed with other management measures or compliance with VMS requirements, the flag state has to be notified and appropriate action taken.

No single country can alone combat illegal fishing as fishing vessels which find one state having an effective port state control can move to other ports in the region. It is here that the close collaboration of all states is crucial and a determining factor to fight illegal, unreported and unregulated fishing.

Hence, I believe this symposium and workshop on Port States Control Measures will definitely contribute to synergise the efforts of all states in the region to effectively combat IUU fishing. In this regard the issues on your agenda are very pertinent and I hope you will seize this opportunity to exchange views and consolidate measures to have effective port state control.

Therefore, I wish you fruitful deliberations and an enjoyable stay in Mauritius. I now have the pleasure to declare the Symposium and Workshop on Port State Measures open.

Thank you.

IOC/FAO/IOTC WORKSHOP
TO STRENGTHEN PORT STATE MEASURES IN THE INDIAN OCEAN

OPENING OF THE WORKSHOP

1. The IOC/FAO/IOTC [Indian Ocean Commission/Food and Agriculture Organization of the United Nations/Indian Ocean Tuna Commission] Workshop to Strengthen Port State Measures in the Indian Ocean was held at the Labourdonnais Hotel, Port Louis, Mauritius, from 21 to 22 June 2007.
2. The Workshop was attended by 38 participants from the Indian Ocean region and 13 resource persons. A list of participants and resource persons is attached as an Appendix at the end of this report.
3. The Technical Secretary of the Workshop, Ms Judith Swan, Legal and Policy Consultant, IOC, Quatre Bornes, Mauritius, called the Workshop to order. She welcomed participants and resource persons noting that the Workshop would provide an opportunity for participants to apply the information they had learned in the preceding IOC/FAO/IOTC Symposium to Strengthen Port State Measures in the Indian Ocean.
4. The Agenda for the Workshop is attached as Appendix W1.

INTRODUCTION AND FORMATION OF THE WORKING GROUPS

5. Ms Swan outlined the way in which the Workshop would be organized indicating that four Working Groups would be formed. Each Group would address three different problem solving exercises. The compositions of the Working Group are attached as Appendix W2.

Exercise 1: Practical application of port State measures in the Indian Ocean

6. The exercise relating to the practical application of port State measures in the Indian Ocean is attached as Appendix W3.
7. The results of the exercise for the four Working Groups are attached as Appendix W4.
8. Mr Marcel Kroese, Consultant, Grahamstown, South Africa, commented on the presentations made by the leaders of the Working Groups. He noted that a number of important issues had been identified including the harmonization of measures to address IUU fishing, the dissemination of data and information relating to measures designed to combat IUU fishing, the use of VMS and its data, the need for capacity-building at all levels and a general lack of resources to implement MCS and related tools. In addition, he pointed out that the issues identified by the Working Groups could be taken as an action list that might be considered in developing national and regional strategies and plans to address IUU fishing. However, he noted that port State measures were only one tool and that they should be supplemented by other tools to address IUU fishing in a comprehensive and holistic manner.

9. Ms Natasha Slicer, Compliance Administrator, Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), Hobart, Australia, echoed the sentiments expressed by Mr Kroese, pointing out that the Working Groups had produced commendable results. She noted the consistent approach taken in their work and also highlighted the importance of using a “toolbox” of measures to combat IUU fishing on the high seas. She added that the application of these tools could enhance significantly the conservation and management of high seas resources, especially those resources that were shared. She stressed that there was a large high-seas IUU fishing fleet operating with no flag or other restrictions and expressed the view that port State measures might be the only real way to deal with them. Ms Slicer noted that through these measures, it might be possible to collect information about the operation of IUU fishing vessels on the high seas that would not otherwise be available.

10. In discussion, the theme of regional harmonization of measures was raised. It was pointed out that harmonization of policy, legislation and other measures could be facilitated also through the implementation of regional fisheries management organization (RFMO) resolutions. However, to prevent the development of gaps in the region, countries should strive to implement measures simultaneously. It was stressed that it was important to create an incentive for countries to act in unison to implement measures against IUU fishing, even though the Workshop recognized that the economic benefits from the implementation of port State measures might not be immediately apparent as they tended to be longer-term in character. Noting the mobile and shared nature of many fisheries resources, it was stressed that measures to address IUU fishing should be applied both in exclusive economic zones (EEZs) and on the high seas as it made little sense to apply measures only in one area only.

11. With respect to IOTC resolutions, it was stressed that while emphasis should be on their implementation, countries should not lose sight of the high level of IUU fishing by vessels within the region. The Workshop recognized the impact of IUU fishing on biodiversity.

12. Concerning operations by unauthorized and unlicensed fishing vessels in the Indian Ocean, the Workshop was informed that there was a high correlation between both of these categories of vessels. It was pointed out that in taking action against one of the categories, it could be expected that there would be a consequent reduction in the number of vessels in the other category.

13. As responsible port States and in implementing port State measures, the Workshop acknowledged that States could take unilateral action against IUU fishing, irrespective of where it occurred. As a practical way forward in addressing IUU fishing in a comprehensive manner, it was suggested that States should consider a two-steps approach whereby coastal States in the region would develop, harmonize and implement measures against IUU fishing as a means of “getting the house in order”. As a second step, after national issues had been addressed, States acting as a bloc, could then turn their attention to, and take action against, IUU fishing at the regional level, including action against IUU fishing on the high seas.

14. The issue of the role of consumers was discussed and it was pointed out that in European markets many consumers did not want to purchase illegally harvested fish. For this reason, countries in the Indian Ocean should strive to implement effective port State measures as a means of blocking the entry of IUU-caught fish into national and international market. Failing to do this could mean that fish exporting countries from the region could encounter consumer-imposed sanctions against their exports.

Exercise 2: Strengthening standards for port State measures in the Indian Ocean

15. The exercise relating to strengthening standards for port State measures in the Indian Ocean is attached as Appendix W5.
16. The results of the exercise for the four Working Groups are attached as Appendix W6.
17. Mr Kyle Hurst, Manager, Vessel Monitoring Systems, Pacific Islands Forum Fisheries Agency (FFA), Honiara, Solomon Islands, commented on the results of the Working Groups noting that a number of important issues had been highlighted including information systems, legislation and training. He added that all Groups had underscored the importance of regional collaboration to address IUU fishing. However, he expressed the view that countries would need to determine what coordination mechanisms would be used to promote collaboration in a realistic and concrete manner.
18. Dr David J. Doulman, Senior Fishery Liaison Officer, FAO Fisheries and Aquaculture Department, Rome, Italy, also commented on the presentations. He stated that while different approaches to the exercise had been taken by the Groups, there was a degree of communality running through the results. He noted that many of the national and regional constraints identified were similar and that this situation was to be expected. He commented particularly on the stress put by all Groups on the need for countries to act together to implement the Model Scheme and to reduce the incidence of IUU fishing in the Indian Ocean. He underscored the need for cooperation with respect to the review and harmonization of legislation, stricter compliance measures and the development of common information systems. Dr Doulman also stressed the need for human resource development and encouraged countries to engage in knowledge and information sharing and the transfer of technology, as some Working Groups had proposed. He pointed out that some of them had made detailed proposals and this level of analysis indicated the depth with which issues had been treated. In conclusion, he added that only one Group had considered the issue of policy and no Group had focused on the need to improve coordination among different agency at national level as a means of enhancing programmes against IUU fishing.
19. Following the presentations it was pointed out that the proposal by one Group to coordinate penalty levels among countries was novel. Such coordination could be an effective means of reducing the incidence of IUU fishing. It was explained that the Group making this proposal was of the view that it was important to coordinate action on port State measures and that if penalties were not consistent among countries this loophole could encourage vessels that had engaged in IUU fishing to select those port where penalties were lowest. The Group believed that this would not be a desirable outcome.
20. It was noted that a mechanism to implement port State measures in the region was required and that the Model Scheme could be coordinated and implemented through IOTC. Mr Alejandro Anganuzzi, Secretary, IOTC, Victoria, Seychelles, advised the Workshop that he was ready to establish a port State measures page on the IOTC website, available for all countries in the region. This page could have national contact details for persons responsible for port State measures, thereby facilitating interaction and the sharing of information among countries. Viewed by the Workshop as an encouraging initiative, he invited countries to provide contact details to IOTC.

21. Moreover, Mr Anganuzzi advised the Workshop that it would be possible to move forward with the development of a regional plan for port State measure within IOTC, focusing on inspection schemes. With such a plan it would be possible to specify timelines, etc., for the various procedures and activities required to implement it. Furthermore, by September 2007, it would be possible to develop a proposal on port State training and that donor assistance could be solicited to support its implementation. These matters could be addressed further at the next annual IOTC session.

Exercise 3: Working Groups: Case study – the Bold Beauty

22. The exercise relating to the Bold Beauty is attached as Appendix W7.

23. The results of the exercise for the four Working Groups are attached as Appendix W8.

24. Mr Terje Lobach, Special Advisor to the Directorate of Fisheries, Bergen, Norway, commended the Working Groups for their interesting results, noting that they were quite different because the assumptions they had made were different in many cases. He pointed out that a pivotal issue was whether the flag State was a member of the 1995 UN Fish Stocks Agreement. He raised a number of issues relating to vessels inspections and the rights and duties of the flag State to inspect a vessel while it was voluntarily in port.

25. Mr Blaise Kuemlangan, Legal Officer, Development Law Service, Legal Office, FAO, Rome, Italy, also provided comments on the outcomes of the Working Groups. He noted that outcomes depended on the assumptions made by the Groups. He expressed the view that under Article 23 of the 1995 UN Fish Stocks Agreement, a port State could take action to inspect a vessel without the permission of the flag State. He reminded participants that although the FAO Model Scheme was voluntary and represented minimum standards, a port State could also take action under the 1982 UN Convention on the Law of the Sea in its capacity as coastal State. Mr Kuemlangan stressed that port State measures were a cost effective and safe means of inspecting vessels because vessel boarding and inspection at-sea was a high risk exercise that could be quite expensive.

26. Discussion focused to a large extent on the circumstances under which a vessel could be inspected while in port. For example, it was pointed out that in many countries if vessels were brought to port on suspicion of drug trafficking, a full inspection would be undertaken. Similarly, if a vessel was in port and was found to be polluting the harbour, a comprehensive inspection would be undertaken, including its fish holds, to assess the extent and the source of the pollution. It was advised that in South Africa, a robust approach was taken to port inspection for fishing vessels and that legislation enabled action to be taken, including the confiscation of catch and seizure of the vessel, if there were reasonable grounds to suspect that it had operated in violation of national laws.

27. Concerning the listing of IUU fishing vessels on RFMO “black” list, the Workshop was reminded that there were a series of procedural steps to be followed and that normally vessels were only listed upon the recommendation of RFMO compliance committees.

CLOSURE OF THE WORKSHOP

28. Mr David Ardill, Regional Coordinator, IOC MCS Project, IOC, Quatre Bornes, Mauritius, advised the Workshop that port State measures gained in efficiency when applied over a wide area and warned that “ports of convenience” could undermine fisheries management efforts in the Indian Ocean. He encouraged all participants, including those from non-IOC member countries, to engage in practical cooperation, particularly with respect to the IOC vessel inspection and infraction list. Mr Ardill noted that the IOC MCS Project terminated in 2008 but that there was a proposal for a follow-on project for island and East African countries. He suggested that one possibility for carrying initiatives forward from the Workshop would be for IOC to assume responsibility for the inspection and infraction list.

29. Mr Alejandro Anganuzzi reiterated that the IOTC proposal made during the Workshop, pointing out that it remained active and “on the table” to be taken up by countries. He added that IOTC would benefit from IOC initiatives and would be willing to assume responsibility for them in the future.

30. On behalf of the participants and resource persons, Mr Gerard Domingue, Senior Manager MCS, Seychelles Fishing Authority, Victoria, Seychelles, thanked the partner organizations for their initiative in developing and delivering the Workshop. He referred to the benefits imparted to the participants in terms of deeper knowledge and the opportunity for regional cooperation. He noted that the Indian Ocean would also benefit from the capacity development at the Workshop and follow-up action in the regional organizations.

31. In her closing remarks, Ms Swan expressed deep thanks to all participants for their active and collegial participation in the Workshop. She noted that she had been very impressed with the results of the Working Groups and their strong commitment to deal with difficult exercises and issues. She also thanked Ms Shirley Aw-Way and Mr Georges Andriambololona from IOC, Ms Marianne Guyonnet from FAO, the interpreter Mr Percy Yip Tong and Mr Meryn Palan and his technical staff from the Labourdonnais Hotel. Ms Swan noted the extremely professional support the Workshop had received from resource persons, many of whom had travelled long distances to be present. She thanked them for their inputs and their willingness to participate in the Workshop. Finally, Ms Swan acknowledged the excellent FAO partnership arrangement with IOC and IOTC. She also reminded participants of the IOTC offers made during the Symposium and Workshop. She added that it was very heartening that some of the outcomes from these meetings were already slated for implementation.

32. The Workshop closed at 13.00 hours on Friday, 22 June 2007.

Agenda

Opening of Workshop

Introduction and formation of working groups

Session 1: Working Groups: Practical Application of Port State Measures in the Indian Ocean

- Reports by Working Groups to plenary and commentary

Session 2: Working Groups: Strengthening Standards for Port State Measures in the Indian Ocean

- Reports by Working Groups to plenary and commentary

Session 3: Working Groups: Case Study – the Bold Beauty

- Reports by Working Groups to plenary and commentary (FAO)

Evaluation of Workshop

Closing of Workshop

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**EXERCISE 1:
Practical application of port State measures in the Indian Ocean**

Please summarize responses in dot-point form.

1. What are the main IUU fishing problems in your country?
2. What are the main IUU fishing problems in the region?
3. Which of these problems would be best addressed by port state measures?
4. What are the strengths in implementing port State measures:

	National measures	RFMO measures
From a legal standpoint		
From an operational standpoint		

5. What are the constraints in implementing port state measures:

	National measures	RFMO measures
From a legal standpoint		
From an operational standpoint		

6. Please recommend solutions for overcoming the constraints

**Practical application of port State measures
in the Indian Ocean**

WORKING GROUP 1

1. What are the main IUU fishing problems in your country?

- Insufficient human resource capacity
- Lack of infrastructure such as VMS and other equipment
- Relatively institutional coordination and capacity
- Poaching of fish owing to a lack of control over IUU fishing
- Poor port reporting because of inadequate VMS, data production and exchange

2. What are the main IUU fishing problems in the region?

- Lack of information and knowledge in member States
- Lack of cooperation and coordination between coastal States
- Lack of information on stock assessment and limited information exchange between countries
- Lack of training and variability in MCS capacity that constraints harmonization of activities among members
- Disparity in the contribution of fisheries to growth domestic product
- Lack of implementation of resolutions adopted by regional fisheries organizations
- The importance of economic interest versus the effect of IUU fishing and the need to address the problem
- Lack of follow-through from regional symposia and meetings
- Regional fisheries organizations do not understand fully understand national conditions in some countries

3. Which of these problems would be best addressed by port State measures?

- Training and awareness building
- Investment and infrastructure
- Specialists support on VMS
- Poaching of fish

4. What are the strengths in implementing port State measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • No regulation for VMS • problem of broad legal coverage (law exists for the marine sector but specific regulation are required) • some states are developing laws for port State measures • implementation of regulations (where they exist) need trained inspectors and strong sanction • harmonization of national laws across the region 	<ul style="list-style-type: none"> • harmonization of regulations

From an operational standpoint	<ul style="list-style-type: none"> • port State measures are cost effective • accessibility to the fishing fleet 	<ul style="list-style-type: none"> • reduction in transshipment • cost effectiveness of the inspections of flag State vessels
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5. What are the constraints in implementing port state measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Lack of harmonization in legal framework • Lack of political will • Time taken to implement measures through legislation 	<ul style="list-style-type: none"> • Putting into national legislation the requirements of RFMO convention • Different legal systems create difficulties
From an operational standpoint	<ul style="list-style-type: none"> • Lack of human capacity and infrastructure • Lack of economic incentives 	

6. Please recommend solutions for overcoming the constraints

- Harmonization of legal frameworks at the regional level
- Lack of funding
- Need for human resource development and capacity building
- Establishment of a one “stop shop” for all issues relating to port State measures (note that only some countries have MCS)
- Sensitization and coordination at different levels (e.g. who coordinates with stakeholders?)
- The need for fisheries management plans including action plans on port State measures
- The need to strengthen flag State control

WORKING GROUP 2

1. What are the main IUU fishing problems in your country?

- Extensive and large EEZs (limited capacity for surveillance, information gap and lack of VMS)
- Governance issues (EEZ boundaries not delimited, lack of political will, economic and development assistance considerations, lack of conservation and management measures, lack of management plan)
- Lack of flag State control over vessel
- Lack of control by coastal States (transshipment at-sea and spill-over of IUU activities to adjacent EEZs)

2. What are the main IUU fishing problems in the region?

- National issues relating to those outline in Point 1 above
- Stock assessment (lack of knowledge on the status of stocks and the potential for overfishing)
- Lack of regional MCS strategies including a lack of exchange of information
- Limited harmonization of legislation

3. Which of these problems would be best addressed by port state measures?

- Need to address the information gap
- Strengthen enforcement including the reduction of transshipment at-sea
- Address flag State irreponsibilities
- Address coastal States licensing responsibilities

4. What are the strengths in implementing port State measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Existing fisheries Acts but there are gaps in some cases • Institutional framework • Designated authorities • Most States are parties to international instruments 	<ul style="list-style-type: none"> • The number of existing RFMOs • The existence of white and black lists • Catch documentation schemes for frozen bigeye tuna • Various resolutions
From an operational standpoint	<ul style="list-style-type: none"> • Some human resource development required • Vessel registration and fishing licenses • Port inspection • IOC port inspection training 	<ul style="list-style-type: none"> • Requirement for mandatory VMS • Regional stock assessment • Technical support • Catch reporting

5. What are the constraints in implementing port state measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Gaps in national laws • The need to integrate policy into law • Lack of qualified legal personnel 	<ul style="list-style-type: none"> • Some geographical areas and species not covered • Weaknesses in implementing resolutions (e.g. catch documentation schemes) • Inadequate conservation and management measures
From an operational standpoint	<ul style="list-style-type: none"> • Limited human and financial resources • Potential economic losses • Limited capacity with respect to human resources, technical capacity, finance and some institutional considerations • Judicial delays • Enforcement capacity is limited 	<ul style="list-style-type: none"> • Limited coordination in enforcement and MCS

6. Please recommend solutions for overcoming the constraints

- Training and capacity building (human resource development including legal and operation areas and strengthening of information technology and databases)
- Harmonization, strengthening and development of legislation
- Region-wide and harmonize implementation of port State and other measures to combat IUU fishing

WORKING GROUP 3

1. What are the main IUU fishing problems in your country?

- Flag State irresponsibility
- Transshipment at-sea
- Not reporting of catches
- Non observance of national conservation and management measures
- VMS (illegal and deliberate tampering with VMS unit and no legal requirement to carry VMS onboard)
- Lack of capacity (including enforcement, financial, technical and human resources)
- Lack of MCS
- Language and communication problem with crews on vessels

2. What are the main IUU fishing problems in the region?

- Flag States responsibilities
- Lack of regional cooperation on information including data sharing
- Lack of regional cooperation between relevant regional authorities
- Economic versus sustainability issues
- Lack of information on EEZ boundaries (need for delimitation)
- Lack of VMS (possible to monitor only those vessels that agree to carry VMS and those that agree to report to the coastal State)

3. Which of these problems would be best addressed by port state measures?

- VMS
- Transshipment (the port State if it is also the flag/coastal State can require vessels to transship in port)

4. What are the strengths in implementing port State measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Comprehensive legislation only in some countries 	<ul style="list-style-type: none"> • Cooperation through RFMOs and other organization
From an operational standpoint	<ul style="list-style-type: none"> • VMS • Capacity building 	

5. What are the constraints in implementing port state measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Inadequate national legislation 	<ul style="list-style-type: none"> • Financial, political and economic implications involved in joining an RFMO
From an operational standpoint	<ul style="list-style-type: none"> • Lack of national capacity and requirement for human resource development and financial resources • Political will and exchange of information 	

6. Please recommend solutions for overcoming the constraints

- Regional human resource development
- Regional cooperation through RFMOs and other organizations
- Harmonization of fisheries legislation
- Knowledge of market destinations for fish (know where the catch is going)
- RFMOs within their mandates to assist developing countries implement international fisheries instrument through capacity-building activities

WORKING GROUP 4

1. What are the main IUU fishing problems in your country?

- Foreign vessels using port in the region are not equipped with VMS nor do they have licenses to fish
- Lack of regional cooperation
- Refusal of vessels to provide necessary information to coastal States authorities (e.g. information contained in logbooks)
- Poor information generally about the status of fish stocks
- Lack of MCS (including a lack of technical, financial and human resources)
- Lack or outdated legal framework for MCS operations
- MCS accorded a low national priority
- Outdated fisheries legislation
- Lack of cooperation between national institutions (especially maritime authorities and those responsible for fisheries)

2. What are the main IUU fishing problems in the region?

- Lack of regional strategy for cooperation
- Lack of cooperation between countries with respect to the exchange of information, transfer of knowledge and disregarding regional resolutions (for example, those of IOTC)
- Lack of information on IUU fishing activities in the region
- Lack of delimitation of EEZs
- Lack of harmonization of fisheries legislation
- Poor and inefficient control of fishing vessels at-sea
- Poor port State measures in the region

3. Which of these problems would be best addressed by port state measures?

- Lack of harmonization of fisheries legislation
- Poor port State measures
- Lack of cooperation between countries for the exchange of information, transfer of knowledge and disregarding regional resolutions

4. What are the strengths in implementing port State measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • To implement new fisheries legislation in all countries 	<ul style="list-style-type: none"> • Adoption of certain resolutions by IOTC
From an operational standpoint	<ul style="list-style-type: none"> • Implementation of VMS in all countries of the region • Implementation of technical means for MCS (e.g. development of strengthened coastguards) 	<ul style="list-style-type: none"> • Regional plan for fisheries MCS • Implementation of bilateral cooperation concerning fisheries MCS

5. What are the constraints in implementing port state measures:

	National measures	RFMO measures
From a legal standpoint	<ul style="list-style-type: none"> • Lack of implementation of IOTC resolutions • Lack of political support to implement regional and international instruments • Lack of legal capacity in some countries 	<ul style="list-style-type: none"> • Harmonization has yet to become effective
From an operational standpoint	<ul style="list-style-type: none"> • Inadequate resource personnel and a lack of national strategies 	<ul style="list-style-type: none"> • Lack or inadequate exchange of information at national level

6. Please recommend solutions for overcoming the constraints

- Strengthening and applying regional and international instruments
- Strengthening legal capacity in the area of fisheries
- Giving effect to the harmonization of national laws
- Promotion of national strategies on fisheries
- Strengthening information exchange among countries
- Strengthening the means for operational capacity of countries to deal with port State measures and IUU fishing

**EXERCISE 2:
Strengthening standards for port State measures in the Indian Ocean**

Please summarize responses in dot-point form.

Please identify constraints for implementing port State measures in the following areas:

	National	Regional
1. Legal		
2. Information requirements		
3. Information systems		
3. Inspection procedures		
4. Results of port State inspections		
5. Training programmes		
6. Other		

Please identify solutions to the constraints described above.

	National	Regional
1. Legal		
2. Information requirements		
3. Information systems		
3. Inspection procedures		
4. Results of port State inspections		
5. Training programmes		
6. Other		

**Strengthening standards for port State measures
in the Indian Ocean**

WORKING GROUP 1

Please identify constraints for implementing port State measures in the following areas:

	National	Regional
1. Legal	<ul style="list-style-type: none"> • Compatibility of different legal systems (common law and civil law) • Time for treaty/instrument, formulation and national law • Weakening of the scheme caused by countries not being willing to implement some or all of the measures (See Article 10 of the Model Scheme) • No basis in some countries (Articles 2.4 to 2.6) 	<ul style="list-style-type: none"> • loopholes in Article 2.5 with respect to non members of RFMOs • non signing and ratification of RFMO convention
2. Information requirements	<ul style="list-style-type: none"> • lack of human technical and financial capacity • lack of software and hardware and ongoing financial support 	
3. Information systems	<ul style="list-style-type: none"> • lack of a national system 	<ul style="list-style-type: none"> • lack of a regional system
4. Inspection procedures	<ul style="list-style-type: none"> • technical capacity of inspectors • lack of human and financial resources 	
5. Results of port State inspections	<ul style="list-style-type: none"> • lack of capacity and financial resources • lack of information systems 	<ul style="list-style-type: none"> • lack of capacity and financial resources • lack of information systems
6. Training programmes	<ul style="list-style-type: none"> • lack of financial resources • need for human resource development • need for incentives to retain inspectors 	
7. Other		

Please identify solutions to the constraints described above.

	National	Regional
1. Legal	<ul style="list-style-type: none"> • undertake legal reviews to determine the extent of implementation 	
2. Information requirements		
3. Information systems		<ul style="list-style-type: none"> • implement a regional system that is compatible with national and other regional systems
3. Inspection procedures	<ul style="list-style-type: none"> • devote additional resources to training 	<ul style="list-style-type: none"> • harmonize national systems across the region
4. Results of port State inspections	<ul style="list-style-type: none"> • national results will depend on capacity and functioning of the system 	<ul style="list-style-type: none"> • national results will depend on the capacity and functioning of the system
5. Training programmes	<ul style="list-style-type: none"> • additional resources for human resource development 	<ul style="list-style-type: none"> • additional resources for human resource development
6. Other		

WORKING GROUP 2

Please identify constraints for implementing port State measures in the following areas:

	National	Regional
1. Legal	<ul style="list-style-type: none"> • gaps in national law • integration of policy into law • lack of qualified legal personnel (because of low remuneration) • limited awareness about evolving international law in the area (due to low international exposure) • limited bilateral/ multilateral arrangements between coastal States in the region 	<ul style="list-style-type: none"> • low implementation of RFMO measures by measures
2. Information requirements	<ul style="list-style-type: none"> • interagency communication • language barriers 	<ul style="list-style-type: none"> • lack of common requirements • a network of focal points is lacking • lack of registry for licensed fishing vessels
3. Information systems	<ul style="list-style-type: none"> • a general lack of information technology resources • lack of databases • lack of skilled personnel that deal with fisheries • lack of information systems 	<ul style="list-style-type: none"> • lack of harmonized communication systems
4. Inspection procedures	<ul style="list-style-type: none"> • lack of trained inspection personnel • lack of inspection procedures in some countries • lack of legal inspection regulations in some countries 	<ul style="list-style-type: none"> • lack of harmonized inspection procedures and regulations

5. Results of port State inspections	<ul style="list-style-type: none"> • lack of follow-up actions to inspections • lack of sanctions with sufficient impact to deter IUU fishing • inadequate interagency communication 	<ul style="list-style-type: none"> • lack of a harmonized regime for sanctions • lack of established mechanisms to communicate the results of inspections to other countries in the region
6. Training programmes	<ul style="list-style-type: none"> • insufficient programmes for the training of inspectors and other stakeholders 	<ul style="list-style-type: none"> • insufficient programmes for the training of inspectors and other stakeholders
7. Other		

Please identify solutions to the constraints described above.

	National	Regional
1. Legal	<ul style="list-style-type: none"> • harmonization of national legislation • integration of policy into legislation • increased awareness and participation in international and regional initiatives • greater national commitments 	<ul style="list-style-type: none"> • stricter compliance
2. Information requirements	<ul style="list-style-type: none"> • established procedures for interagency communication • translation and language cards 	<ul style="list-style-type: none"> • development of common information requirements
3. Information systems	<ul style="list-style-type: none"> • implementation of common information systems • investment in software and hardware • additional human resource development 	<ul style="list-style-type: none"> • establishment of a common information system
4. Inspection procedures	<ul style="list-style-type: none"> • mandatory port inspection by all countries • implementation of common inspection procedures and regulations • human resource development for inspectors 	<ul style="list-style-type: none"> • establishment of common inspection procedures and regulations • common region wide training arrangement for port inspectors
5. Results of port State inspections	<ul style="list-style-type: none"> • prescribe follow-up actions in legislation and regulation • implementation of a harmonized sanctions regime • establish procedure for interagency communication 	<ul style="list-style-type: none"> • implementation of harmonized sanction regime • establishment of mechanisms for communicating the results of inspections to other countries in the region
6. Training programmes	<ul style="list-style-type: none"> • establishment and implementation of human resource development programmes 	<ul style="list-style-type: none"> • implement common training programmes • encourage the sharing of experience and knowledge among countries

WORKING GROUP 3

(Note: Group 3 focused on the Model Scheme itself and as such constraints identified were with respect to the specific provision of the Scheme including its annexes)

Please identify constraints for implementing port State measures in the following areas:

	National	Regional
1. Legal	<ul style="list-style-type: none"> • No law in certain countries (Article 3.1 of the Model Scheme) • No power given to inspectors in certain countries (Article 3.4) • No power to require information in certain countries (Article 3.5) 	
2. Information requirements	<ul style="list-style-type: none"> • vessel identification: (Appendix A1) external identification of number is unclear as to what it refers to; i.e. whether to the call sign or the national registration number issued by the flag State • with respect to “areas”, identify whether these areas will be in accordance with FAO codes or other internally accepted codes (Appendix A3, F and 5) • title of Appendix A should be amended to provide for designation of responsibility for the provision of information. This is usually the agent but in the event there was no agent, the master of the vessel should provide this information. The contact details of the agent should also be requested. 	
3. Information systems		
4. Inspection procedures	<ul style="list-style-type: none"> • lack of capacity and resource (Article 3.1) • lack of capacity (Article 3.2, 3.4, Appendix B 1 a) and c), Appendix B 3 and B 5 a) b) and c)) • not practical (Article 3.6) • lack of capacity and costly to implement (Article 3.8) • refusal by the master to sign and contact with the flag State (Article 3.10) • cooperation from the flag State (Appendix B 5 d)) 	<ul style="list-style-type: none"> • port States may not be party to relevant RFMOs (Article 3.1) • port States may not be party to relevant RFMOs (Appendix B3)
5. Results of port State inspections	<ul style="list-style-type: none"> • requirements relating to information (Appendix C2) 	

6. Training programmes	<ul style="list-style-type: none"> • training generally and the need to ensure that there is training for inspectors to identify whether there has been tampering with VMS units (Appendix D) • lack of capacity • lack of financial resources 	
7. Other	<ul style="list-style-type: none"> • with respect to force majeure, there were different views: one that there should be no change, and the other that the port State has discretion to decide whether the particular situation falls under bone fide force majeure 	

Please identify solutions to the constraints described above.

	National	Regional
1. Legal	<ul style="list-style-type: none"> • identify gaps in existing legislations or regulations and revise them to give appropriate power to port States to implement the provision of the Model Scheme and port State measures 	
2. Information requirements	<ul style="list-style-type: none"> • to differentiate between external identification numbers and the international call signs through appropriate color coding 	
3. Information systems		
4. Inspection procedures	<ul style="list-style-type: none"> • support the need of developing states to increase their capacity to implement the provisions of the Model scheme and port States measures in areas of technology (transfer of technology), human resource development and adequate financial resources 	
5. Results of port State inspections		
6. Training programmes	<ul style="list-style-type: none"> • provision of training for inspectors as specified in Appendix D of the Model Scheme by establishing mechanisms to address lack of human capacity • secure funding to undertake training programmes. 	

WORKING GROUP 4

Please identify constraints for implementing port State measures in the following areas:

	National	Regional
1. Legal	<ul style="list-style-type: none"> problems caused by vessels without licenses (Article 2.4 of the Model Scheme) 	
2. Information requirements		
3. Information systems		<ul style="list-style-type: none"> the systems exist but they have not been implemented (Article 2.9) they do not exist in all countries in the region (Article 6) possible but requires improvement to ensure confidentiality (Article 7)
4. Inspection procedures	<ul style="list-style-type: none"> all countries do not have the capacity to undertake port inspection (Article 2.3) lack of systematic and rigorous procedures (Article 3.1) only in selected countries (Article 3.2) difficulty with implementation (Article 3.6 and 3.8) 	
5. Results of port State inspections		
6. Training programmes	<ul style="list-style-type: none"> lack of systematic training programme (Article 4) 	<ul style="list-style-type: none"> non existent in all countries of the region (Article 5)
7. Other		

Please identify solutions to the constraints described above.

	National	Regional
1. Legal	<ul style="list-style-type: none"> revision of legislation to take account of problems concerning unlicensed vessels 	

EXERCISE 3: Bold Beauty

The scenario

The Bold Beauty, a purse seiner registered in Centralia, was apprehended in Voluptia's waters on suspicion of illegal drug trafficking pursuant to information from Interpol. She was taken by the Navy to the Voluptian port of Vavoom, and there was inspected for a consignment of cocaine.

The information indicated that the consignment would be found in containers located underneath the catch in the fish hold. The customs inspectors, also trained in fisheries inspection, noted that the fishhold was only half full. The catch comprised orange gumfish, a high value pelagic species that occurred only above sea mounts in the high seas adjacent to Voluptian waters and for which fishing had been strictly limited through a combination of quotas and seasons by the members of the Oceanic Fisheries Commission (OFC). Because it was late in the season and the quotas were believed to have been fully taken, the evidence suggested that the entire catch had been taken illegally and that the vessel's operations had undermined OFC management measures.

Voluptia and Centralia are both members of the OFC and parties to the 1995 UN Fish Stocks Agreement. The OFC was in the process of developing a regional port State control scheme based on the FAO Model Scheme on Port State Measures, and members were urged to implement the Model Scheme expeditiously and to the extent possible. The OFC maintains a list of IUU vessels and vessel monitoring system (VMS). It requires members to authorize vessels for fishing on the high seas and in the waters of other countries.

Centralia had consistently objected to many of the conservation and management measures adopted by the OFC, including those relating to fishing for orange gumfish, VMS requirements and the requirement to authorize fishing outside areas of national jurisdiction.

Drugs were not found on the Bold Beauty, and late-breaking information from Interpol indicated that the vessel either did not receive them or had transferred them to another vessel on the high seas. The investigation was terminated.

Voluptia requested permission from Centralia to carry out a fisheries boarding and inspection, including catch, fishing gear and documents, but Centralia denied permission. Voluptia then requested Centralia to take flag State measures, including inspection and compliance activities, but Centralia refused.

Bold Beauty then set sail for Paradiso to re-supply and to offload catch that would be air freighted to Hole Foods, a well-known supermarket chain in Europe with an ecolabelling programme that requires traceability audits. The journey normally takes two days, and requires transiting the high seas and Paradiso waters before entering the port of Paress. Paradiso is also member of the OFC.

In the meantime, Voluptia had immediately reported the information regarding the Bold Beauty's suspected IUU catch and Centralia's failure to take flag State measures to the OFC, which transmitted the information to all members.

Two days after leaving the Voluptian port of Vavoom, OFC received a report originating from a member's fishing vessel that Bold Beauty was sighted fishing in the high seas for more orange gumfish. The next day, a Paradisan Air Force aerial surveillance mission sighted Bold Beauty engaged in unauthorized fishing in Paradiso's exclusive economic zone.

Five days after leaving Vavoom, the Bold Beauty requested permission to enter the Paradisan port of Pareess. It did not provide the information regarding the authorization, trip and species as required in the FAO Model Scheme and implemented by Paradiso at the request of OFC. However, it was granted permission to enter port and immediately inspected using procedures in the Model Scheme.

The inspectors found that her hold was three-quarters full of orange gumfish and one-quarter full of another high-value species, the goldtail striker, that occurs in Paradiso's waters. The inspectors found that the Bold Beauty had not complied with the catch documentation scheme for orange gumfish required by the OFC and to which Centralia had not objected.

The inspection, together with the sighting reports, resulted in clear and compelling evidence that Bold Beauty had engaged in fishing on the high seas that had undermined OFC management measures, and in unauthorized fishing in Paradiso's waters.

The problem

Taking account of all the information provided, briefly comment on actions that should have been taken or should be taken by the following:

- Voluptia
- Paradiso
- the OFC
- Centralia

Bold Beauty

WORKING GROUP 1

Assumptions and basis for discussion

- The vessel was in transit in Voluptia's water
- The 1995 UN Fish Stocks Agreement did not apply because orange gumfish is a discrete high seas stock and not a straddling fish stock or a highly migratory fish stock
- The catch documentation scheme allowed for the confiscation of any catch that violated the scheme
- It was a strategic decision by Paradiso to permit the vessel entry to port instead of apprehending it while it was fishing illegally

Voluptia

- All appropriate action was taken

Paradiso

- Confiscation of the catch taken in the EEZ as it was taken in contravention of the catch documentation scheme. The vessel was also confiscated and the highest possible fine was levied
- A report was made to the flag State and also to the RFMO
- A report was made to the supermarket chain in Europe concerning the action of the Bold Beauty

OFC

- Declared that Centralia was an irresponsible flag State
- Political and diplomatic pressure was taken by OFC members to encourage cooperation

Centralia

- Should not have refused to exercise effective flag State responsibility
- If the country does not have the capacity to implement flag State responsibilities, then it should not flag vessels
- Should implement Article 13 of the 1995 UN Fish Stocks Agreement (i.e. flag States responsibilities on the high seas)

WORKING GROUP 2

Assumptions and basis for discussion

- The Bold Beauty was on innocent passage through Voluptian waters
- The Bold Beauty was not on the OFC IUU fishing vessel list
- Voluptia does not implement the FAO Model Scheme
- Centralia has an OFC quota for gum fish

Voluptia

- Is a member of OFC
- Is a party to the 1995 UN Fish Stocks Agreement
- Is both a port and coastal State

Action taken

- Apprehended the Bold Beauty on suspicion of drug trafficking
- A port inspection was undertaken for illegal drugs
- Requested flag State's permission to inspect the fish onboard the vessel
- Requested Centralia to exercise flag State measures
- Release Bold Beauty and then notify OFC

Action that should have been taken

- Collection of information concerning fishing (in particular whether gear was stowed)
- Full port State inspection in compliance with OFC measures
- Review and check of catch documentation
- Check with OFC to secure information on quotas
- If there was sufficient evidence, seize the catch and vessel and initiate legal proceeding
- Provide information to relevant States
- If the vessel was found in contravention of laws, take steps to put it on the OFC/IUU fishing vessel list
- Inform the supermarket chain

Action to be taken now

- Implement the FAO Model Scheme

Paradiso

- Is an OFC member
- Is not party to the 1995 Fish Stocks Agreement
- Is both a port and coastal State
- Is implementing the FAO Model Scheme

Action taken

- Gave permission for the vessel to enter port
- Inspected the vessel on the basis of the FAO Model Scheme and the OFC catch documentation scheme
- Found the vessel had violated the catch documentation scheme
- Found illegally caught fish onboard from the country's waters, including illegally caught gumfish

Action that should have been taken

- Require the vessel to provide information according the FAO Model Scheme (Appendix A2.4)
- Denied access to port due to OFC's notification based on information provided by Voluptia

Action to be taken now

- Seize the catch and vessel
- Initiate legal action
- Inform Centralia, OFC and the supermarket chain of developments
- Take steps to put the vessel on OFC/IUU fishing vessel list
- Inform concerned States in the region

Centralia

- Is a flag State
- Is a member of OFC
- Is party to the 1995 UN Fish Stocks Agreement
- Has objected to certain OFC measures relating to fishing for gumfish, VMS and fishing authorizations outside national waters

Action not taken

- Refused to cooperate with Voluptia
- Denied permission for Voluptia's inspectors to inspect the vessel and initiate compliance action
- Refused to take flag State responsibility for the vessel
- Objected to OFC's conservation and management measures

Action that should have been taken

- Implemented duty to cooperate with other States and the OFC
- Flag State inspection of the vessel

Action to be taken now

- Report to OFC on compliance action and measures taken by the flag State against the vessel
- Revoke the vessel's registration and fishing license
- Implement flag State responsibilities under the 1995 UN Fish Stocks Agreement and in accordance with the resolutions of OFC

OFCAction taken

- Notified OFC members of the Bold Beauty incident and the information provided to Voluptia

Action that should have been taken

- Requested Centralia to take action against the vessel as it was in violation of the catch documentation scheme
- Requested that the vessel be put on OFC/IUU fishing vessel list
- Notify the supermarket chain about the vessel and the organization implementing the traceability scheme
- Requested Voluptia to take legal action against the vessel

Action to be taken now

- If Centralia does not comply, report the matter to the OFC Compliance Committee
- Implement regional port State measures
- Be proactive and assist OFC members to combat IUU fishing

WORKING GROUP 3**Assumptions and basis for discussion****Voluptia**

- The vessel was fishing illegally on the high seas
- Is implementing the FAO Model Scheme

Actions undertaken

- Promptly notify the flag State (Centralia) and the OFC
- The vessels had breached national fisheries laws and should have been subject to appropriate action
- The flag State did not react to information provided
- Assuming that Voluptia had incorporated of Article 23 of the 1995 UN Fish Stocks Agreement into its national legislation, it should have reacted appropriately

Paradiso

- The vessel had breached the countries national laws by fishing illegally

Actions undertaken

- A port inspection of the vessel
- Prosecution initiated under national laws
- Permission to land or transship the catch was denied in accordance with Article 23 of the 1995 UN Fish Stocks Agreement and relevant national laws.
- The catch was seized

Centralia

- Is a member of OFC and party to the 1995 UN Fish Stocks Agreement
- Upon being notified of the allegation of illegal fishing, it should have initiated appropriate actions to address the situation

Actions undertaken

- The port State had indicated that a fishing violation had clearly taken place and appropriate measures had not been complied with
- Action under the 1995 UN Fish Stocks Agreement (Article 19) should have been implemented
- A prompt investigation of the alleged violation should have been undertaken
- The vessel should have been requested to give information to authorities in Voluptia and Paradiso
- If the violation was sustained, the vessel should be banned from fishing in the high seas until all outstanding issues and sanctions had been fully addressed and complied with

OFC

- is in the process of implementing the FAO Model Scheme

Actions undertaken

- agreed to list the vessel on the IUU fishing vessel list
- informed other members so that they could implement port State measures
- had taken action to inform the importing State including the supermarket chain and authorities in the EC
- is investigating the type of sanctions that might be taken against Centralia for non compliance with catch documentation scheme requirements

WORKING GROUP 4**Assumptions and basis for discussion**

- the port State should have seized the vessel and commenced legal proceedings against it
- the vessel was under the flag of Centralia
- the vessel was suspected of illegally transporting drugs
- the vessel was inspected for illegal fishing and to determine matters related to quotas for the fish onboard
- the vessel was fishing illegally in Paradiso's EEZ

VoluptiaActions undertaken

- Actions were taken in accordance with obligations assumed under the 1995 UN Fish Stocks Agreement (Article 23)
- A port State inspection was carried out
- Information was passed to the OFC
- Prohibited the vessel from entering port because of illegal catch onboard
- Requested Centralia to exercise flag State responsibility over the vessel

ParadisoActions undertaken

- The vessel was inspected and seized
- Initiated legal proceedings based on the 1982 UN Convention, the 1995 UN Fish Stocks Agreement and the resolutions of the OFC
- Prohibited the vessel from entering port because of illegal catch onboard
- Requested Centralia to exercise flag State responsibility over the vessel

CentraliaActions undertaken

- Took port State measures in accordance with the 1995 UN Fish Stocks Agreement (Article 18), including the implementation of sanctions on the vessel and collaboration with other members of the OFC
- Authorized Voluptia to board and inspect the vessel

OFCActions undertaken

- Informed member about the situation with the Bold Beauty
- Took action to put the vessel on the IUU fishing vessel list
- Implemented the measures in the regulations with respect to warnings, sanctions, documentation, etc.)

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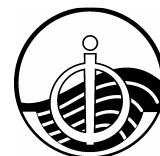
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This document contains the reports of the IOC/FAO/IOTC [Indian Ocean Commission/Food and Agriculture Organization of the United Nations/Indian Ocean Tuna Commission] Symposium and Workshop to Strengthen Port State Measures in the Indian Ocean held in Port Louis, Mauritius, from 18 to 22 June 2007. Participants included representatives from governments, industry, regional fisheries management organizations (RFMOs) and civil society. The Symposium was held from 18 to 20 June 2007 with the purpose of raising general awareness about the potential effectiveness of strengthened and coordinated port State measures and to develop national capacity and promote regional coordination so that countries would be better placed to improve the management of offshore fisheries and combat illegal, unreported and unregulated (IUU) fishing in the Indian Ocean and, as a result, meet the requirements of relevant RFMOs. The Workshop was held immediately following the Symposium from 21 to 22 June 2007. It focused on participatory exercises and problem solving activities based on the knowledge acquired during the Symposium. Working Groups were formed and case studies used to enhance knowledge and skills relating to port State measures as a means of combating IUU fishing. Exercises included the practical application of port State measures, strengthening standards for port State measures and the “Bold Beauty” case study.

The convenors of the Symposium and Workshop expected that they would result in improved capacity for countries to strengthen and coordinate their port State measures with the objective of managing offshore fisheries better and deterring IUU fishing.



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