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BLUEING THE ECONOMY BY RATIFYING PORT STATE MEASURES (PSMA)



40% of West Africa's total catches may be illegal

Illegal, Unregulated, and Unreported (IUU)

Fishing is a serious problem affecting countries worldwide, but it is developing countries in particular which bear the brunt of negative outcomes through lost revenue, decreased food security, and loss of biodiversity (FAO 2012). Although it is difficult to quantify financial losses due to IUU fishing, illegal fish catches are estimated to be worth \$10-23.5 billion, representing 11-26 million tons of seafood (Agnew et al. 2009). Given the hidden nature of IUU activities, and the massive quantities of fish catches that are still unreported, these figures must be considered conservative. Some countries suffer greatly (40% of West Africa's total catches may be illegal) and, in others, illegal fishing may double the documented harvest numbers (Agnew et al. 2009)¹.

The **Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing** (the Agreement) was adopted by the UN FAO Conference in 2009.² As the first binding international agreement aimed directly at halting commerce in IUU products, the Agreement sets out a set of baseline norms for applying port state controls measures to fishing vessels. The Agreement focuses on minimum measures to be applied to foreign vessels when seeking entry to (or present in) ports, but parties to the Agreement can (and many do) apply the same to their own domestic fleets.

IUU fishers often rely on so-called “**ports of convenience**”—where inspection capacity or control activities are very limited—to get their illegal catch from ship to market. By ratifying and implementing the Agreement, however, port States can be in position to close these channels for illegal commerce. Under the Agreement, port states are applying international norms to refuse port entry or access to port services, including landing and transshipment of fish, to foreign-flagged vessels known to have engaged in IUU fishing (PSMA

Art. 9). Moreover, implementation of the Agreement can strengthen both domestic and international fisheries governance. Fishing ports are places where several kinds of important information can be gathered by multiple agencies. Implementation of the Agreement helps promote strong internal coordination in the implementation of port states measures. In addition, such information can be shared with other port States and with Regional Fisheries Management Organizations (RFMOs), significantly strengthening regional cooperation and ensuring that IUU fishers cannot take advantage of uncoordinated national efforts against illegal behaviour.

An additional benefit of the Agreement is that it promotes enhanced **control by flag states** over their vessels, which increases security and reduces the pressure of illegal activity on port states. Specifically, the Agreement requires flag states to take certain actions at the request of the port State or when vessels flying their flag are suspected to have been involved in IUU fishing. This responsibility for flag states should ensure that they continue to exercise control over vessels flying their flags in areas beyond their national jurisdiction. The Agreement also requires better and more effective cooperation and information exchange among coastal States, flag states and RFMOs. (PSMA Art. 6).

In short, the Agreement **significantly enhances the power of port states** to control their ports by taking actions *authorizing entry, landing, transshipment, supplying, refueling, docking or denying those services, inspecting, demanding for information, requesting flag State, RFMO assistance and information* (PSMA Art 11).

Port state measures are also highly cost-effective. Although port state measures cannot fully replace electronic monitoring system and catch documentation

¹ <http://fishwise.org/press/blog/224-un-fao-port-state-measures-agreement>

² FAO Conference Resolution 12/2009 approved the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. For access to the Agreement and some explanatory materials, see <http://www.fao.org/fishery/topic/166283/en>.

schemes, they provide a highly efficient and less expensive means for ensuring compliance with national law and regional conservation and management measures. Applying the Agreement, governments can increase the use of port inspectors while reducing the time, effort, and resources needed for monitoring, pursuing and inspecting vessels at sea or conducting air patrols. Enforcing control measures in port are very much cheaper and safer than conventional air, sea and surface patrols.

The Port State Measures Agreement will come into force when it has been formally ratified by twenty-five countries. As of September 2015, thirteen countries have deposited their instruments of ratification: Australia, Chile, European Union, Gabon, Iceland, Mozambique, Myanmar, New Zealand, Norway, Oman, Seychelles, Sri Lanka, and Uruguay.³

Additional Background and Information

Basic objectives of the port state measures

- To contribute to harmonization of port state measures against illegal fishing on a global basis
- To enhance regional and international cooperation
- To block the flow of IUU-caught fish into national and international markets
- To help strengthen fisheries management and governance
- To contribute for more accurate and comprehensive data collection
- To improve national security through better control of ports, coasts, and maritime areas
- To facilitate implementation of international labour, safety and pollution standards on vessels

Why African states should ratify and implement the Agreement

- IUU fishing in African fisheries is a major problem. It poses a serious threat to the effective conservation and management of many fish

stocks, and can lead to the collapse of a fishery with economic, environmental and social consequences.⁴⁵ Efforts to rebuild stocks are lengthy and costly to the nation and industry. Collapsed stocks mean loss of employment and economic opportunities. Collapsed stocks can also lead to collapsed communities and economic instability. It is estimated that more than USD 1 billion worth of landed fish in Africa comes from IUU fishing.⁶

- Most African countries have declared extensive EEZs but lack patrol vessels and other assets to enforce fisheries management and other laws in the waters under their jurisdiction. The result is significant maritime insecurity and vulnerability for African coastal states.
- By implementing port state measures, financial gains that today flow to illegal actors could be recaptured by governments and coastal communities. Furthermore, IUU catches could be prevented from entering international trade, thereby enhancing Africa's reputation and in global seafood markets and being identified as sourced from Africa.
- Port state measures also help reduce unfair competition from illegal fishers thus securing income for legitimate fishers.
- The provisions of the Agreement encourage flag states to fulfill their responsibilities under international law, including through compliance with their commitments under RFMOs such as the IOTC, which has had a port state control scheme since 2010.
- The Agreement includes specific provisions (Art. 21) to create a trust fund to support capacity development in developing countries.
- Port state measures offer an opportunity to check and verify the legality of the vessel, catch, crew and activities in a way that is cost-effective and makes better use of existing MCS systems, personnel, equipment and assets.
- Port state measures encourage integration with health, security and safety measures.
- The Agreement supports better information sharing among port states, allowing early warnings and better cooperation and outcomes. It will reduce the number of ports of non-compliance in Africa, reducing opportunities for vessels to benefit from illegal activity.
- Ratification and implementation of the Agreement will help port states avoid being identified as

³ http://www.fao.org/fileadmin/user_upload/legal/docs/037s-e.pdf, last update 11 August 2015.

⁴ <http://www.fao.org/fishery/topic/166283/en>

⁵ Shrimp fisheries in Tanzania collapsed due to the use of dynamites, use of mosquito net affecting marine ecosystems in Mozambique

⁶ Stop Illegal Fishing, The Impact of Flags and Ports of Non Compliance in the SADC Region, Vol. 2, Report, 2008

non-cooperating countries (yellow card/red card) under import control regimes such as those in place in the EU and US. Joining the PSMA is one objective way to show a country is working toward effective control of IUU, helping ensure export markets remain accessible.

- The Agreement serves as a basis for criminal, civil or administrative legal action against illegal fishers. Appropriate sanctions and penalties allow restitution for lost and stolen marine resources and should deter the violator and others.
- The Agreement helps harmonize the minimum legal requirements, making it easier for officials to know the requirements and harder for violators to exploit differences in laws among countries.

Should African Port States legislate and implement PSMA even before ratification?

It might not be obvious to countries why port state measures are important in the fight against IUU fishing, and why they should be addressed in updating existing, or adopting new, legislation. A brief review of the benefits of ratifying and acceding to the Agreement and implementing its provisions is useful. These considerations are in addition to the positive effect of ratification and accession of the Agreement by as many States as possible, as soon as possible, so as to lead to its early entry into force and its universal acceptance.

In order to have full effect and to be enforced on a national level, the requirements of the Agreement should be incorporated into national legislation. Even before the Agreement has entered into force, States, including those that do not wish to become a party, could implement the port State measures set out in the Agreement. Implementing port State measures through national legislation will give an incentive to establish coordinated procedures and facilitate intra-agency

cooperation.

Most African countries require prior notification (24h to 7 days) of vessel entrance to port, authorization for landing and dockside inspection but designated ports through which foreign fishing vessels may enter, inspections following set international standards and procedures after inspections, possibility of entry blocking of vessels known or believed to have been involved in IUU or those on an IUU vessel list of a RFMO are issues that are not addressed in most domestic African countries legislations.

Be part of the agreement while already bounded by PSM Resolution/ Recommendation from an RFMO?

The Agreement places a particular responsibility on RFMOs, and several of its provisions stress the importance of regional cooperation through such bodies. They are likely to develop region-specific port State measures that take into account the special needs and challenges of countries in the region. With the exception of the Indian Ocean Tuna Commission (IOTC), which has adopted a resolution that includes most of the substantive duties of the PSMA, overall the tuna RFMOs do not meet the new international minimum standard set by the PSMA. In particular, they do not have strong PSMs in place and the PSMs that they have adopted are quite fragmented⁷.

There are large differences in the geographical scope of the PSMs adopted by each RFMO. RFMOs port State measures apply only to ports, and vessels within the Convention Area and part of the organization, which limits its effectiveness.

⁷ <http://www.pewtrusts.org/en/research-and-analysis/reports/2011/07/06/closing-the-gap-comparing-tuna-rfmo-port-state-measures-with-the-fao-agreement-on-port-state-measures>

AFRICAN PORTS STATES AND PSMA STATUS

Country	Port	Signature	Ratification	Country	Port	Signature	Ratification
Algeria	Algiers Annaba Oran Skikda	-		Mauritania	Nouakchott	-	
Angola	Lobito, Luanda Soyo	22 Nov 2009	-	Mauritius	Port Louis	-	
Benin	Cotonou	28 Sep 2010		Morocco	Agadir, Casablanca Ceuta	-	
Cameroon	Douala	-		Mozambique	Beira, Maputo and Nacala	4 Nov 2010	Ratified 21 August 2014
Cape Verde Islands	Praia	-		Namibia	Luderitz Walvis Bay	-	
Congo	Pointe Noire	-		Nigeria	Calabar, Lagos- Apapa, Port Harcourt Warri	-	
(Ivory Coast)	Abidjan	-		Réunion	Pointe des Galets	-	
Djibouti	Djibouti	-		Sao Tomé and Príncipe	Sao Tomé	-	
Egypt	Alexandria Damietta Port Said	-		Senegal	Dakar	-	
Equatorial Guinea	Bata Malabo	-		Seychelles	Victoria	-	Ratified 19 Jun 2013
Ethiopia	Assab	-		Sierra Leone	Freetown		
Gabon	Massawa Libreville (Owendo) Port Gentil	26 Apr 2010	Ratified 15 Nov 2013	Somalia	Berbera Mogadishu	-	
Gambia	Banjul	-		South Africa	Cape Town ,Durban East London, Port Elizabeth, Saldanha Bay	-	
Ghana	Tema	28 Oct 2010	-	Sudan	Port Sudan	-	
Guinea	Conakry	-		Tanzania	Dar es Salaam, Mtwara, Tanga, Zanzibar	-	
Guinea-Bissau	Bissau	-	-	Togo	Lome	-	
Kenya	Mombasa	19 Nov 2010	-	Tunisia	Sfax, Sousse and Tunis-La Goulette	-	
Liberia	Buchanan Monrovia	-		Zaire	Boma, Matadi	-	
Libya	Benghazi Tripoli	-					
Madagascar	Majunga Tamatave	-					

**Why we are here.**

To stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature.

www.panda.org/cea

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