



Stopping Illegally Caught Fish at the Dock

How the Port State Measures Agreement will curb illegal fishing

Overview

Can one international treaty help reverse years of rampant and widespread disregard for fisheries laws and policies? We believe the answer is yes, but a treaty is only as good as the parties that ratify and enforce it.

The treaty in question is the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, commonly called the Port State Measures Agreement, or the PSMA.

Adopted in 2009 by the U.N. Food and Agriculture Organization, or FAO, the treaty requires parties to exert greater port controls on foreign-flagged vessels, and as a result to keep illegal, unreported, and unregulated, or IUU, fish out of the world's markets by removing the incentive for dishonest fishing operators to continue their illegal activities.

But the PSMA will take effect only after 25 parties have ratified it. (For a current list of port States that have ratified the treaty, see www.fao.org/fileadmin/user_upload/legal/docs/2_037s-e.pdf.)

Signatories to the PSMA should confirm their commitment to ending illegal fishing by ratifying, accepting, or approving the treaty now. Countries that did not sign the treaty can accede to it at anytime.

How port controls help combat IUU fishing

IUU fishers rely on a range of tactics and loopholes in international law to get their product to the market, but ports known for lax law enforcement or limited inspection capacity are a prime pathway for unethical fishermen to get their catch from ship to shelf. By ratifying the PSMA, signatories send a clear message that their ports are no longer open for the landing of illegal catch. Port States enforcing the treaty will 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.

Such vessels, if entering into port, will be subject to immediate inspection under the agreement, and the results of the inspection will be communicated to other relevant States and organizations to facilitate cooperation in enforcement actions. As a result, IUU fishers will have fewer and fewer ports where they can offload their illegal catch.

The benefits of becoming a party to the Port State Measures Agreement

There are numerous benefits to becoming a party to the PSMA. Among them are:

- **Boosting fisheries sustainability:** The treaty's principal objective is to support sustainable fisheries for the long term, which in turn ensures the sustainability of the marine environment. IUU fishing negatively affects fisheries management and increases damage caused to stock health from overfishing.
- **Cost-effectiveness:** At-sea patrols and aerial surveillance are necessary but expensive ways to establish and maintain fisheries monitoring, control, and surveillance. Port controls are relatively inexpensive in comparison, and a particularly useful way of detecting illicit activity by monitoring foreign-flagged vessels that come to port to offload their catch.
- **Transparency and information sharing:** The treaty establishes the need for the development of a global information-sharing mechanism to facilitate the exchange of information on port controls and IUU activity. Effective information sharing across national and regulatory boundaries is essential to successfully combat IUU fishing.
- **Capacity building:** The PSMA acknowledges the special requirements of developing States and asserts that parties shall provide technical and financial assistance to those that become party to the treaty. In fact, the treaty calls for creating a specialized body to manage such assistance. This will support the successful implementation of the treaty, enabling developing port States to boost capacity to more quickly recognize IUU fishing in their regions and take adequate enforcement action.

How to become a party to the treaty¹

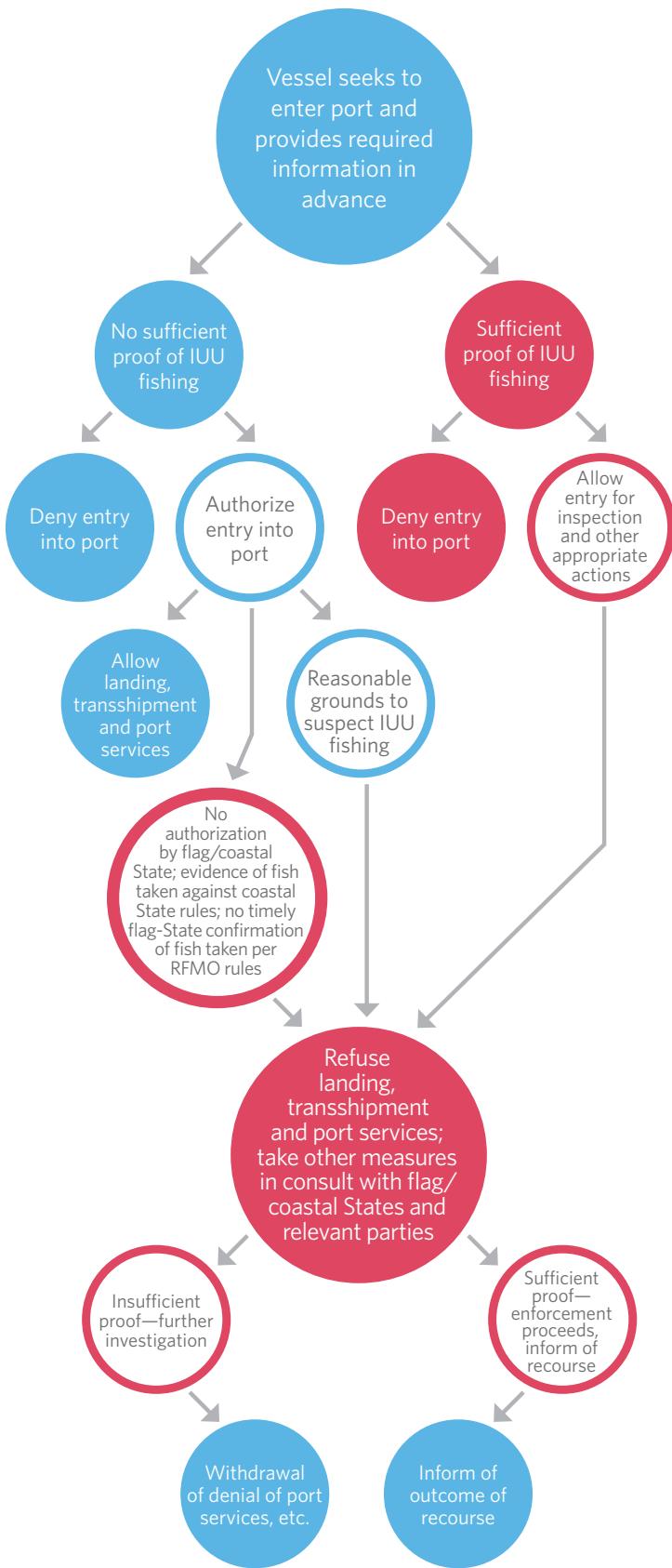
To become a party to the PSMA, any country that signed the treaty should deposit its instrument of ratification, approval, or acceptance with the director-general of the FAO. States that did not sign the treaty should deposit what is called an "instrument of accession" with the director-general of the FAO. (See Annex 1 below for an example of how to make those deposits. For more detail on becoming a party to the PSMA, call FAO headquarters at +39-065-7051.)

Annex 1:

How the agreement works in port

The vessel master seeking to enter port must, sufficiently in advance and in accordance with the port State's requirements, provide the fisheries authority with information including the identity of the vessel, the catch onboard, fishing and transshipment authorizations, and details of any transshipments that have taken place.

1. Port officials decide whether to authorize or deny the vessel's entry into port, taking into account the vessel's report and all other available information to determine whether it might have been involved in IUU fishing or fishing related activities in support of IUU fishing ("IUU fishing"). If the vessel is allowed into port, it is then subject to the port State's jurisdiction.
2. If there is sufficient proof that the vessel has been involved in or supported IUU fishing, the port State can either refuse the vessel entry into port or allow entry exclusively for the purpose of inspecting the vessel and taking other appropriate actions. Any such vessel entering into port must be denied port use for landing, transshipping, packaging and processing of fish and for other port services including re-fuelling and resupplying, maintenance and dry docking ("port services").
3. If a vessel enters into port and there are reasonable grounds to believe that the vessel has been involved in IUU fishing, it must be refused permission to land or transship its catch and use the port's services.
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port's services if: the port State finds that the vessel does not have a valid authorization to engage in fishing or fishing related activities required by the flag State or by a coastal State; or the port State receives evidence that fish on board was taken in contravention of coastal State requirements; or the flag State does not confirm within a reasonable period of time that fish on board was taken in accordance with requirements of regional fisheries management organizations.

5. A vessel must not be denied use of port services where the safety of the crew or the vessel, or the health of the crew, are at risk.
6. Also, the port State may take other measures, including measures in consultation or cooperation with the flag State and, if appropriate, coastal States and regional fisheries management organizations.
7. The port State must transmit inspection reports and information on measures taken following inspection to the flag State, and, as appropriate, to other relevant States, regional fisheries management organizations, the FAO and other relevant international organizations.

Annex 2:

Model instrument of ratification or accession

To ratify or accede to the PSMA, Pew suggests using this language: "The Government of [country] has the honour to refer to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, which was approved by the FAO Conference at its Thirty-sixth Session in November 2009, and to inform the Director-General of the Food and Agriculture Organization of the United Nations that [country] hereby [ratifies] [accepts] [approves] [accedes] to the aforesaid Agreement pursuant to its Article 26 [Article 27, if acceding] and undertakes to abide by its provisions.

[Date] [Signature by one person: Head of state or government; or Minister of foreign affairs or department concerned] [SEAL]

Instrument may be emailed (director-general@fao.org) or faxed (+39 065-705-31520, but must also be sent by post, preferably through diplomatic channels, to: FAO, Director-General, Viale delle Terme di Caracalla, 00153, Rome, Italy).

Endnotes

1 UN Depositary Guidelines 2010, at http://treaties.un.org/doc/source/publications/NV/2010/Depositary_Guidelines-2010.pdf; UN Treaty Handbook, at <http://treaties.un.org/doc/source/publications/THB/English.pdf>; and FAO Rule of Procedure XXI, para. 4, http://www.fao.org/docrep/007/j2954e/j2954e02.htm#P6_2

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